

**Milton Town Council Meeting Minutes**  
**Milton Library 121 Union Street**  
**Monday, January 7, 2013, 6:30 p.m.**

1. Presentation from ---- Brad Whaley, Director, Sussex County Community Development and Housing Department re: Community Development Block Grant program  
Mayor Newlands: I apologize for the small room, but the Library has class going on next door, so for the next three months we're going to be in half a room. Let's get started. The first item on the agenda is a presentation by Brad Whaley from the Community Development Block Grant and Housing Department.  
Brad Whaley: Thank you. I'd like to thank the Mayor and Council for allowing us to hold a Public Hearing tonight. I'm with Sussex County Community Development and Housing. I'd also like to introduce Brandy Bennett-Nullman. She's with our department. She's been with us for over five years as our Housing Coordinator and she's done an excellent job. For over twenty years, our office has applied for and administered the Community Development Block Grant Program for the communities in Sussex County. The CDBG program uses funds from the Department of Housing and Urban Development that are designed to help communities with housing issues. Every year, we apply on behalf of the towns... CDBG funds from the Department of Housing and Urban Development, which are allocated to the Delaware State Housing Authority, are available to the communities in Kent and Sussex Counties on a competitive basis, so this year there will be about \$2.2 million available on a competitive basis. The Housing Authority lists the projects that we can use the CDBG funding for. They are housing rehabilitation, sewer and water hook-ups, demolition and small infrastructure projects. The projects must benefit people with low to moderate income and they just recently set those guidelines, so a single person household would have to earn less than \$33,350 a year and then that goes up about \$4,700 per household, so a family of four, in order to receive CDBG assistance would have to earn under \$47,600 a year. Historically, the Housing Authority has allocated the majority of this funding for housing rehabilitation to maintain the existing housing stock. Our department does a lot of housing rehabs. We do probably 120 to 140 a year. These rehabs consist of basic housing rehabilitation projects, roofs, windows, doors, electrical, plumbing system upgrades, that sort of thing. Whatever it takes to keep the house up to Code and a viable living unit. When we do these housing rehabilitations, we are required to protect this funding, since it is Federal funding. We do put a lien on the property and depending on the age of the homeowner, if they're over 62, it's a five year lien; if they're under 62, it's a ten year lien, and this is a pro-rated, non-interest bearing lien, basically it just runs its course, as long as they don't sell the property for five years, it just down to a zero balance. If they sell it, they would owe a portion back, whatever portion is left on the lien at the time. If we do a demolition, we are required to put a permanent lien on the property. Over the past twelve years, the Town of Milton has received a little bit over \$417,000 in CDBG funding. We've used that money for housing rehabilitation and infrastructure projects. We've probably helped about 26 households and then the infrastructure projects have helped many more. In this current fiscal year the town received \$64,000 for housing rehabilitation. We've been able to help six homeowner's right now and that fund is pretty much all allocated or under contract. As we said, the main reasons we can hold a Public Hearing, is 1) it's a requirement, in order to apply for the funding, and 2) just to give you an explanation of the program and allow the community and community leaders to have input in what we're going to request in this year's funding. That's really what we're here for tonight. Historically the town has used the funding to do housing rehabilitation. Does anybody have any questions or comments?  
Richard Miller, Gristmill Drive, Milton: In today's market especially with Homeowner's

Associations, if a property goes in foreclosure, that homeowner group is stuck with the maintenance, upkeep, because the bank doesn't want anything to do with the property. How does the Block Grant Program affect those kinds of market conditions?

Brad Whaley: It can't affect a property. It has to be a homeowner occupied property. So you're talking about a property that's become vacant?

Richard Miller: Well if the homeowner goes into default and the property goes back to the bank, how does it affect the lien process and the Homeowner's Association involvement?

Brad Whaley: Well the lien would only come into effect when the property is resold. We really can't have any funding go to properties that aren't homeowner occupied. All our properties are homeowner occupied.

Mayor Newlands: You had mentioned that there's some infrastructural money?

Brad Whaley: Yes. It's something you can apply for. If you have a project that's ready, the engineering work is ready and it benefits an area of town that's low to moderate, it's something that could be considered.

Mayor Newlands: Okay, so it would have to be in an area where the income was low?

Brad Whaley: Yes.

Mayor Newlands: Okay.

Brad Whaley: Yes, we would basically do a door-to-door survey of all the residents that would be served by that, and then we do what is called a Methodology Study, we turn it into the Housing Authority, and it would have to benefit in excess of 51% low to moderate income. There hasn't been that much infrastructure over the past five years. I think there's only been one small project, probably in the past seven years, because there are some other funds the towns can use for infrastructure, but there's very little funding available to maintain the housing stock, so the Housing Authority looks at it that way.

Ginny Weeks, Clifton Street: Is it your choice to put it all towards housing, rather than infrastructure?

Brad Whaley: No, I talked with the town about it and then I asked the town what they would like to apply for?

Ginny Weeks: Because I came many years ago from a town up north, where they do their own CBDG money and they used it for parks, for curbs, for sidewalks in the areas where certain income wasn't met and can we do the same here?

Brad Whaley: You can apply for it. What's going to happen is we'll put together an application, the Delaware Housing Authority will review it and they'll judge it against other projects and...

Ginny Weeks: I see, so it's your decision as to where it stands in the hierarchy?

Brad Whaley: As I said, we'll work with the town to put the application in. The Housing Authority will determine whether it gets funded or not.

Ginny Weeks: Thank you.

Councilwoman Jones: Question? How do you identify those people in need of these funds?

Brad Whaley: Well we have several ways. A lot of times we send out our waiting list, when we're preparing for this meeting to the Town Managers or the Town Building Code Officers, and then they look over it and we just have people call us. We have church groups, community groups, give us names and people just call us. Right now, I think we've got 16 people in the Milton area currently on our waiting list and we were able to help six of them, so we had 24 when we started this year. As neighbors have it done, family has it done, they'll call us and say can I be put on the list to get some assistance.

Councilwoman Jones: A follow-up question. Of that 16 that you have in the Milton zip code, how many are in the Town of Milton?

Brad Whaley: They're all in your town limits.

Councilwoman Jones: They're all in our town.

Brad Whaley: I worked with your Town Manager last year. I think we had a couple that were just outside the limit, because Milton is asking for funding as a town; so all your funding will go within your town limits. We do work outside, we have some other funding that we can use that we called Scattered Site Rehabilitation and we can use that outside the town limits to help people in the country.

Councilwoman Jones: Thank you.

Mayor Newlands: We don't touch any of this money, it doesn't come through town at all. It strictly goes to the individual homeowner.

Brad Whaley: What we do strictly goes to the contractors.

Mayor Newlands: Oh, the contractors.

Brad Whaley: Yes, we write the work up, do specifications, bid the work out and then the money is paid directly to the contractor.

Councilwoman Jones: Then I guess my question is, how does Milton identify those in need?

Mayor Newlands: The way he just said, people come to them, or come to us and say that they want to be a part of the program.

Councilwoman Jones: Okay.

Mayor Newlands: Then Mr. Abbott will put a package together.

Brad Whaley: We maintain waiting lists for every community. I think our county-wide list now has over 800 names, so we've been doing this for quite awhile.

Mayor Newlands: It's a coordination effort that Mr. Abbott works on putting all of this together.

Damalier Molina, 330 Behringer Avenue: I think the best way to identify those needs is to include them in your Comprehensive Plan and this way, the basis for that is that when you include it in your Comprehensive Plan the County will have a rationale for funding the needs that you need to address. Okay?

Brad Whaley: Okay.

Mayor Newlands: Any other questions?

Brad Whaley: Okay, well I've left some documentation. I know you've got a busy agenda tonight, so I don't know if you'll get to it tonight, but there's some documentation that we need signed by the town and then just get that back to us and we'll proceed with the application process. Are you thinking about rehab, or do you want to do some infrastructure, or...

Mayor Newlands: Well the infrastructure, we have a lot of sidewalks that we need done.

Brad Whaley: Okay. Okay, because we've done two over the past twelve years we've worked... I think Mulberry, I think Chestnut, we did part of that too.

Mayor Newlands: Okay, was that the part for the schools on Chestnut?

Brad Whaley: I think yes it was.

Mayor Newlands: Okay. We still have more that we need to do for Chestnut and Atlantic and a few other places.

Brad Whaley: Okay, well we'll be in touch.

Mayor Newlands: Okay, thank you.

Brad Whaley: Thank you very much.

2. Presentation from – Tidewater Utilities re: Water System Interconnection proposal  
Jerry Esposito, President of Tidewater Utilities: With me tonight is Jeremy Kalmbacher, Professional Engineer and also Director of Engineering for Tidewater. We're here tonight, hopefully in about 10 minutes, to give you an overview of our approach to try to assist, if possible, in providing a water supply source for the town. The way we're going to do this, is I'll give a little bit of an update on our experience and expertise in what we call public/private partnerships with municipalities and other government entities and give you an overview of our approach. Jeremy's going to talk about, in a little bit of detail, about the financial and technical

description of our overall approach to provide water supply to you. So, in a nutshell, we're here tonight to talk to you about a way to provide supplemental back-up emergency, or however way you need, water supply for the town. Our approach would be to do so through an inter-connection with our largest water district, the district that serves the unincorporated areas between Rehoboth and Lewes. It's our largest district. It's got elevated water storage, a series of water supplied wells and pump houses. Jeremy will describe them to you, very stable, very secure and our largest district throughout the State. We believe it will be much less expensive than the approach that you were looking at about a year ago and in a way, if we're able to discuss with you, we could possibly provide a revenue source for the town, as well; either through some rebate program for future customers that would hook to it, or through some way of purchasing water from the town, so that it is a two-way inter-connection with the town. So let me give you a brief history and it will be brief of our inter-governmental arrangements that we've had in the State of Delaware over the last ten years, or so. First of all, as you probably know we provide wastewater service to the Town of Milton. In Delmar, we were selected to be the water and wastewater provider for future growth areas in the Town of Delmar. We also, not on the chart here, but we also serve six governmental entities throughout the State in our affiliated company called White Marsh Environmental Systems, where we operate through our contract operations arm, through our licensed wastewater and water operators for other government entities. We have 50 some contracts, six of them are for government agencies and entities. The Town of Lewes, we're negotiating right now with emergency and other back-up inter-connection with the City of Lewes, at their request. We have a long-standing inter-connection with the Town of Bethany Beach. Bethany used their inter-connection several years ago when they were rehabbing and upgrading their water plant. We provided the water so that they wouldn't be out of water for any time at all. In Dover, we are a customer in three different inter-connection locations and we also have an emergency inter-connection with a two-way meter that we can buy and sell water, in case of an emergency there; actually the inter-connection is by the Wilmington University site, near the on-ramp, as you leave the City of Dover. Dover Air Force Base, we have two experiences with Dover Air Force Base. The first is we have an emergency inter-connection that was used for a seven month period in 2010, as an example, for the sole supply for the Dover Air Force Base. When they were rehabbing their whole system, they took it down, and we ended up providing 53 million gallons of water to them during those seven months in 2010 and then off-base housing for Dover Air Force Base, they had privatized their off-base housing about seven years ago. 900 homes are served solely by our water supply at Dover Air Force Base through a separate tariff that we negotiated and got approved by the Public Service Commission and finally in the Town of Ocean View, we were able to compete and get the contract to provide the sole supply source of water for the Town of Ocean View; so they own the infrastructure. They wanted to own the infrastructure so they could qualify for grants and loans. We were able to sell them the CPCN that we had had for the Town of Ocean View and then we also, as part of the negotiations were able to sign a contract that's been going on for five years, where we operate the system for the town. So we do all of the billing, all of the customer service, all of the maintenance of the system for the Town of Ocean View. So the point is, we have a long standing experience, a track record with servicing towns, municipalities, government entities. We think we could be very flexible and depending on your interest, as you'll see in a few minutes from the details that Jeremy's providing, we have an opportunity here that I think can help the town out. So I'm going to turn it over to Jeremy and then after he's done, we can answer questions, if that's appropriate. Jeremy.

Jeremy Kalmbacher, Tidewater Utilities: Thank you, Jerry. I appreciate the time just to present this solution here that we came up with and we're certainly opened to other solutions. We thought we'd propose something, let everyone take a look at it, and if there are other ideas, we'd

certainly more than welcome those. Like Jerry mentioned, this is Tidewater's largest district. It's our Rehoboth district. It serves approximately 10,000 customers, residential and small businesses up and down the corridor there, Route 1 and we actually have seven water plants, seven primary water plants that operate full time and then we have a couple of back up and nine wells that are primary. And Tidewater produced 500 million gallons, just in that district last year, so it is our largest district for the whole year and we have a DNREC allocation for 770 million gallons per year, so we have ample capacity, ample allocation from the State that that's available to serve on an On Demand basis. We have elevated storage, we have our current elevated storage tank which is located at the Home Depot, which if you guys go down there, I'm sure you probably drive by it. We just recently repainted it and it's 750,000 gallons and we also have a second elevated storage tank proposed at the Beacon Middle School on Route 24. We've worked with the Cape Henlopen School District to have a site there and we're currently proposing a 1.5 million gallon elevated storage tank there. So we have plans to keep our system upgraded and with ample storage and ample supply that's available for use. So our solution, the opportunity that we saw was having an inter-connection with the Town of Milton and we have an existing main here, a 12" main, on Cave Neck Road; I believe it's that portion of Cave Neck Road there and an inter-connection from there right into town, a 12" main and we thought it had several benefits. One is the town would have the opportunity... First it would be a town-owned main; what we thought would be the best solution is the town has their own infrastructure, they have their own Water Department, they can get grants and State Revolving Fund funding, they could very easily be the owner and operator of this water main, it would be town owned. That would give the town the ability to purchase water on demand, whenever they need it. Also they could sell water back to Tidewater. That would be an option too, depending on peakings and different data. You could maybe buy it to fill your tank and then probably at other times, you could sell water back when you have extra capacity, so it can work both ways, so purchase water on demand, sell water and optimal capital costs for putting pipe in is usually a better option than building tanks and water treatment facilities. We've noticed we get a better bang for our buck. It's very easy to maintain. We just experienced repainting our elevated storage tank and that was about \$500,000 to repaint a 750,000 gallon tank, so there's a lot of ongoing costs associated with water tanks, as I'm sure you guys are aware of. The good thing about a water main is you don't have to paint it and you don't really have to do a lot to it, besides exercise a few valves, now and again, which we prefer to do. Much better maintenance expenses, low ongoing maintenance costs, and we thought a good benefit would be a possible... there's a good potential for a concept that we've just thought of, like a royalty fee, since that would be a town-owned main, if there were new developments that came in along that area, say a development along there came up and wanted service, I know it would be outside the town's limit, but since water can pass through it, Tidewater could probably, potentially tap that main, serve a new development, but also because that water's going through the town's main, there could be a wheeling fee, or a revenue stream, from using your main; like a lease fee maybe; something like that. So the more developments that came in along the route, that fee could be on a per gallon, or a per connection, or a per development basis, so that you could earn some sort of revenue stream on that infrastructure as time goes on. That is an asset that you have in the ground there. So those were some of the ideas that we thought of, the benefits of doing an inter-connection. We thought they were good for both parties and if anyone has any questions, I do have an extra set of maps that I could leave here for those that may want to take a look at it later.

Councilwoman Jones: I couldn't quite see the map. Where would you propose an inter-connectivity between your main water source and Milton? What location?

Jeremy Kalmbacher: The location that we were proposing is near the Atlantic Street pump station, so we would come right down Cave Neck Road and we could tie in there. If there's a

better tie in location, this just seemed to be the closest point. If there's a better place hydraulically, that would be an option too.

Mayor Newlands: Everything in yellow there, on the center there, that's your entire system?

Jeremy Kalmbacher: Yeah, the yellow is our franchise area.

Mayor Newlands: Okay. I couldn't see Town providing you with water, since your servicing such a huge area. I don't see that being feasible for us to be capable of doing that.

Jeremy Kalmbacher: The only thing that we could give you, an option, is that if there were some sort of peaking... You're right. We really don't need it, but if there was a way, maybe you used water in the summertime and you didn't want to maybe pay that bill and we had an inter-connection agreement, we would allow you, maybe, to pump back to us what you purchased from us; so there's a net, if that makes sense. So we really don't need it, but if you wanted the option to be able to pump it back to us when you didn't need it, kind of like a peaking, peak sharing...

Mayor Newlands: Yes, summertime we're using 500,000 gallons a day.

Jeremy Kalmbacher: But probably not in the wintertime, so you might be able to send some back to us in the winter, just to make you net zero.

Mayor Newlands: Right. Right. Okay.

Jeremy Kalmbacher: Something like that.

Mayor Newlands: Okay.

Councilman Booros: Quite honestly if it's a net zero, what's in it for you? If we're going to pump it back to you in the wintertime so that we have a net zero, why do you want to even do this?

Jeremy Kalmbacher: We're in the water business and we like having a good relationship with the town.

Councilman Booros: You like us. I understand if you're buying and we're buying.

Jeremy Kalmbacher: It's not going to cost us any money...

Councilman Booros: But if you don't need our water...

Jeremy Kalmbacher: Well there's emergency. One of the key things that public health does have in the State Revolving Fund application is emergency inter-connections. So emergencies, is important. I mean, it wouldn't really cost us any money, if you owned the pipe, so it's great just to have an inter-connection for redundancy and the possibility.

Councilman Booros: I can barely see it, but the little dotted red line, is that the pipe?

Jeremy Kalmbacher: That's the pipe, yes.

Councilman Booros: So we would own that whole pipe, all the way down to wherever that is?

Jeremy Kalmbacher: That's correct.

Councilman Booros: Okay.

Councilwoman Jones: And Jeremy, how would the costs be handled for pulling that pipe from your closest area to Atlantic Street pump station, or does it already exist for you?

Jeremy Kalmbacher: How would the cost be handled, the construction cost?

Councilman Booros: How much is it going to cost us?

Councilwoman Jones: Construction costs.

Jeremy Kalmbacher: I estimated \$1.7 million for the construction cost.

Councilwoman Jones: Is that a shared cost?

Jeremy Kalmbacher: Under this scenario, it would not be a shared cost.

Councilman Booros: Because we own it.

Jeremy Kalmbacher: You would own it.

Councilwoman Jones: Okay.

Win Abbott, Town Manager: Could I help out a little bit? Through Pennoni Associates, our consulting engineer for the upcoming State Revolving Fund loan process. We're looking at

various scenarios for improvements to the water system, including supply alternatives. Now the inter-connection is one component of several things in the supply inter-connection. One thing that you do not see on the map that is set forth here, is the CPSC, the franchise area given by the State of Delaware to the Town of Milton. I don't think that our franchise area extends the full length of that pipe and as was the case with our Artesian presentation, there was an area somewhere between where their existing franchise area was and where our franchise area is, whereby there could be some breakdown of the costs, the bringing of the line, the infrastructure to the point where it's the edge of our franchise area; or the edge of our municipality and the costs that are involved in the infrastructure development would be borne by the town at one place, or another, and the benefits of providing service to existing persons, or customers, within the town or outside of town, but within our franchise area, would be realized, the revenue from that. So this is what Jeremy is speaking to. This proposal here covers one scenario, but not all of it and the return on investment, is something that could be negotiated with regard to the whole process of the State Revolving Fund loan and how we want to develop our water system improvement system.

Councilman Booros: Mr. Atkins, can you tell us how far down Cave Neck Road our franchise area goes?

Allen Atkins: I have no idea.

Councilman Booros: Approximately. A mile out of town?

Allen Atkins: I don't know where the CPC end goes. I haven't seen the map recently, so I can't say.

Win Abbott: I would say at least to Sam Lucas.

Allen Atkins: Oh, it goes to Sam Lucas, but not too much farther then that, I don't believe.

Councilman Booros: Okay.

Jerry Esposito: One thing I wanted to follow up on. I mentioned, briefly, about the experience in Ocean View. That was a fairly long process. This approach was taken because of the experience in Ocean View. Ocean View, as a town, made a decision and looking back on it, it was the right decision, that it benefited them for their customers, because a municipality can qualify for grants and loans that a private utility couldn't qualify for, so for them to apply for and own the pipes, even though they had no interest in getting into the Water Department business, that worked out for them, so the way this approach and Mr. Abbott's right, it doesn't have to be. We could own the pipe too, it just means that the eligibility for funds and grants are different and the costs ultimately come back to you. If you're eligible for grants and loans and you are looking to build a water tank and a water plant, and other things, and you're going to file for State Revolving Fund loans and grants, anyway, this is a much lesser capital improvement cost and it's also a quicker thing to do. At the end of the day, if you own the infrastructure, then you have more flexibility because you're not just eligible for capital funds, but you also have the ability to manage that asset and that's what Ocean View decided that they wanted to do and it worked out seven, eight years ago very beneficially. I think they have a good \_\_\_\_\_ with this.

Councilman Booros: So the Town of Milton is permitted to install and own pipe, that far outside of our franchise area?

Jerry Esposito: Yes.

Councilman Booros: That was my question.

Jerry Esposito: Imagine it being a long service line.

Councilman Booros: That's fine.

Jeremy Kalmbacher: I just thought of this, it may or may not, but it may also give you a little bit of control or say over the growth in that corridor. We've seen a very heavy construction expansion heading north on Route 1 and I would imagine if the economy does pick back up, that development is probably going to continue to push that way and if you own that pipe, you

would have somewhat of a stake or say, I think, in what type of development occurs and things like that.

Mayor Newlands: And you own your sewer pipe along that line, as well, right?

Jeremy Kalmbacher: Yes, our sewer line comes up Diamond Farm Road and then comes down.

Tina Thoroughgood, Spruce Street: I'm just trying to look at the map. Is that like Overbrook Shores, that line's running to, approximately on Cave Neck Road where it's ending that Milton would... the line would go from the Town of Milton that we would have to pay all the way out to like almost Overbrook Shores, that area?

Jeremy Kalmbacher: Yeah, I believe so. Overbrook Shores is a little closer to Route 1.

Tina Thoroughgood: Okay. I understand the area. So does that include... How does it work with like acquiring the easements and bonding. Is that all included in that \$1.7 million, is that all included in doing that?

Jeremy Kalmbacher: Yes, DelDOT has a substantial right-of-way there, so I would anticipate installing most of it in the DelDOT right-of-way.

Tina Thoroughgood: Okay, thank you, that's all I had.

Ginny Weeks, Clifton Street: As development comes down Cave Neck Road and we own that water pipe, would we then be in competition with you to sell water to those developments?

Jeremy Kalmbacher: We probably wouldn't be in competition. We would be looking to purchase it or have an agreement with you where you would allow us to use the pipe, so... Because it's not your franchise, I'm not sure we would be in competition. If you wanted to extend your franchise out there, then we would, I guess, be...

Ginny Weeks: But we would own the pipe?

Jeremy Kalmbacher: You would own the pipe.

Ginny Weeks: And not be able to...

Jeremy Kalmbacher: So you kind of have control, as opposed to competition.

Ginny Weeks: Okay.

Mayor Newlands: We can sell water outside of town, so we're allowed to do that.

Ginny Weeks: We're not allowed...

Mayor Newlands: We do sell water outside of town.

Ginny Weeks: So we could sell water off that pipe to further developments.

Mayor Newlands: Sure.

Ginny Weeks: Thank you.

Councilwoman Jones: I have a question. Mr. Abbott, maybe I need to ask it of you. If in the future, that pipe actually belonged to us, for that extended distance, when developments occur, the powers that be, do they look to Milton and the owner of that pipe to be the absolute must, must supply of water to developments along that route? Does it lock us into that kind of commitment if we are right now trying to do this for water for our own folks here in town, so if water is available and the State sees it, the development office, it's there, is Milton bound? Do you know?

Win Abbott: The short answer is no, I don't know. Now, I can say this much. If you'll recall our presentation from Artesian Water, this very same kind of scenario was presented. It happened in the Town of Clayton, Delaware, where the town owned it's own water system. It had a bilateral agreement with Artesian for a back-up water supply and then there were developments outside of the Town of Clayton, Wind Song Farms, I believe it was, where they were Artesian customers that had to purchase their water from the Town of Clayton, by which through this negotiated agreement, the water that was generated by the Town of Clayton backed up by a different agreement for supply, from Artesian Water, was provided to Artesian customers. So it's possible, that there will be customers out there that would be Tidewater Utilities customers that would be buying water through Town of Clayton pipes, under an agreement that was negotiated at a bulk



rate, between the Town and Tidewater, whereby they would be Tidewater customers. The Town of Milton would have an agreement and would have some revenue benefit from it in the long run.

Mayor Newlands: Are you trying to ask if we have exclusive right... exclusivity?

Councilwoman Jones: No not an exclusive right, but are we looked at as actually being responsible since we have a line there, to supply – that's my question. But now that adds to another – if Tidewater provides us water when this community needs it and they don't need our water, we obviously have a smaller allocation than they do. As this development comes on board, would we have to continue to go back and make application for greater amounts of allocation, just for water being pumped out of the ground? Because right now part of the reason we're in this conversation is we're not doing enough on our own. We're not storing enough on our own. We don't even sometimes have the availability on our own; so if you come up with a development there, around the Island Farms, you're going to be pulling water out of Milton's source to supply it, is that how I understand?

Jeremy Kalmbacher: I could maybe answer it, if you wanted me to. On your first question, about are you bound to serve? You're only bound to serve in your franchise area, so if the property is not in your franchise area, you're not obligated to serve through the CPCN requirements. The second idea about would you have to serve – what we would propose, if it was a Tidewater customer, we would propose to just pump our water through your pipe, so that you don't have to use your supply, but then we would pay you a portion for using that pipe, like we're leasing it from you.

Councilwoman Jones: Okay.

Mayor Newlands: With our system, the way we have it now, I can't envision us pumping any water down there, at all. But if we own the pipe, like Jeremy said, we could get some rebates back from them, for customers that they service, because it's our pipe.

Jerry Esposito: Maybe it wasn't clear, but what Jeremy was saying when he was describing this royalty, our arrangement with you would make sure that that was exclusive. In other words, we would not provide anything other than the water from that pipe; we would be willing to codify that in an agreement.

Councilwoman Jones: That was clear, thank you.

Mayor Newlands: We're already at our limits, as far as wells go; we pull a half a million gallons, that's all we're permitted to do right now; we're already at those limits in the summertime.

Councilwoman Jones: Okay.

Mayor Newlands: Mr. Miller.

Richard Miller, Gristmill Drive, Milton: My question is more of clarification. It has to do with zoning and I guess what would be sovereignty. If along that dotted red line, that proposed pipeline, that's outside our governmental jurisdiction. I'm trying to understand the law of the County in this equation. If a developer wanted to do wells, he wouldn't be drawing off this proposed connection. I'm just trying to understand the relationship that would be added, because it's really County Council controlled land.

Jeremy Kalmbacher: Yes, you're correct. The County Council would be the ones that would obviously approve the development. It's very rare for developers to be able to put in their own wells, because they're not allowed to set up their own utilities... Well they could set up their own utility company, but most developers don't really want to because they're not in the utility business, they're in the development business, so it's possible, but it's a minimal chance that a developer would actually want to put his own system in. They usually would come to the water company or to a town for that service.

Mayor Newlands: And if there are systems in small developments, you generally facilitating them for them anyway. Aren't you?

Jeremy Kalmbacher: Yes and once they know there's a pipe there, they're going to be excited that they don't have to do anything on their site, because it's more land for them to build on.

Mayor Newlands: There's a question back there.

John Collier, 301 Coulter Street: My first question has to do with Certificates of Public Necessity. The yellow area, obviously you have them there. Is there anywhere on this map along that red line that is not indicated that you already have the Certificate of Public Necessity for?

Jeremy Kalmbacher: \_\_\_\_\_ no.

John Collier: Yellow and nothing else, Sir. Right now that's all wide opened.

Jeremy Kalmbacher: Artesian may have some.

John Collier: Well Artesian runs down along the 5 corridor, as far as I know. But anyhow, my second question is, the royalties that you mentioned. Are they negotiated on the front end, or are they negotiated on a case-by-case basis?

Jeremy Kalmbacher: I think you could do it either way. You could do it \_\_\_\_\_, you could do it front end.

John Collier: Well that would be my question, because we can negotiate them at a particularly low rate today and maybe not serve anybody for fifteen years and it would be a real bargain for you guys and we still have to maintain the infrastructure.

Jeremy Kalmbacher: You could even do it two ways. You could do it on a cost per gallon, so that any gallon that goes through there you would get a revenue, but then when a development comes, you could also do it like an impact fee, so that you could do it both ways to kind of cover yourself.

Jerry Esposito: The service contract that we have with Ocean View is renewable on a five-year basis and we're going through that renewal right now, so it's not locked in forever. It is a five-year renewal.

Mayor Newlands: Are there any other questions?

Jeremy Kalmbacher: Would you like me to leave a set of maps?

Mayor Newlands: Please. Thank you.

### 3. Public Participation

- 1) Gwendolyn Jones, 204 Atlantic Avenue: I just had some questions. There are three examples of recent notoriety. You promoted and enacted moderating taxes for June Wagamon's community by raising the rest of the taxes on Milton residents, the rest of Milton residents. I understand you intend on pursuing a second referendum, on an expensive water system, despite the resounding defeat of the first referendum by a 2 to 1 margin and despite repeated and vocal opposition by the majority of Milton Town Council and those residents in attendance. You seem to take advantage of the scheduled Milton Town Manager vacation, to sneak through a pay raise, across the board, rather than merit based bonuses. How can you say that it doesn't appear that you're promoting an agenda contrary to the visions and intent of the majority of Milton Town Council members who were elected to represent the residents in Milton?

Mayor Newlands: Can you go over the first part of what you asked about Wagamon's?

Gwendolyn Jones: Okay, I recall you had promoted for some time and you had gone with the clipboard; you took our petitions, etc. You were promoting and enacting moderating the taxes on your Wagamon's community, by raising the rest of the taxes on the rest of Milton residents.

Mayor Newlands: That's not accurate, sorry.

Gwendolyn Jones: Okay, well I'll have to go back in the records. My memory seems to... I can stir that up then. But the other portion was intending a second water referendum, despite the resounding defeat of the first by a 2 to 1 margin. I think the Milton residents

spoke at that point and despite the repeated vocal opposition by the majority of Town Council and those residents in attendance, taking advantage of the scheduled Town Manager vacation to sneak through a pay raise, across the board, rather than merit pay bonuses. I was here for a lot of those meetings and it was arduous, but I think the people in attendance and the majority of Milton Town Council made their intentions plain and that comedy of errors, this pay raises, have seen to go through despite the opposition of the people of Milton and the majority of Town Council. So it appears to me it is some kind of an agenda, that you're not here to represent the Milton residents, you're here to represent your agenda and I'm not exactly sure what it is, but I've not been in support of that. I'm just raising a question.

Mayor Newlands: That's fine.

Gwendolyn Jones: Thank you.

Mayor Newlands: Thank you.

- 2) Mayor Newlands: Mr. John Collier. And if we could keep the comments brief, we do have a large agenda tonight.

Seth Thompson: If there are people here to speak on the Heritage Creek proposed revision, if you could save your comments to that portion of the meeting so they'll all be together in one spot, that would be helpful.

John Collier, 301 Coulter Street: Thank you Mayor and Council for the opportunity to speak again. My question regards an item on the agenda regarding Charter for the Personnel Committee and I got to reading Chapter 26 of the Town Code, which basically describes how the Personnel Committee comes to be and what its duties there are, so I don't understand why we need to charter a committee that already exists by Ordinance and is defined in its duties by Ordinance. I mean, why create another document to confuse the matter all that much more? Now there are some things within this Ordinance that probably need to be tweaked, here and there, and I won't argue that, because it's kind of confusing about who the Personnel Officer is, to begin with, and there's some other language in there that's probably not correct in the terms that other things that have been done in recent time. So I'm trying to figure out why we need this additional document.

Mayor Newlands: It's not an additional document, it's just really tweaking the existing document. Council wanted to have Personnel Committee handle pay increases and that's all this is about.

John Collier: Okay, well then that would require a change in the Ordinance, not a Charter.

Councilman Booros: Right.

Mayor Newlands: It's just the terminology that I used. If it's confusing, I'm sorry.

John Collier: Okay, well the terminology was confusing, so if it hadn't been confusing, I wouldn't have had to waste your time. But thank you for the time.

Seth Thompson: Mr. Collier, the one thing we did... the Council did pass that Ordinance to correct and clarify who the Personnel Officer is. I recognize it hasn't gone up on General Code yet.

John Collier: Okay that's fine, well it's still not there, but there are some other issues, but we'll leave that for another time, another place.

Councilman Booros: And one of those issues, since he's brought it up, and I'm not going to let it pass by, is this Personnel Committee has been supposed to meet since October. I've looked at all these minutes that were in this package, and Mr. Mayor you agreed they were going to meet, like two or three different spots where I've highlighted in these two sets of minutes, that meeting has still not been called of the Personnel Committee.

Period.

Mayor Newlands: We will have a meeting this month.

Councilman Booros: But, you know, from what I hear, you're the Chair of the Committee and you've got to call the meeting. Well according to the Charter, you are not the Chair of the Committee and cannot be the Chair of the Committee, according to the Charter. So I don't know who can call a Committee Meeting of the Personnel Committee, if we don't have a chairperson on the Personnel Committee. I would just like to know, because I'm not going to tell you something, I'm not going to let this slide by one more meeting. When is this Personnel Committee going to meet?

Mayor Newlands: We will meet this month.

Councilman Booros: That's what I heard last time and it was going to be after numerous conversations it was going to be in this man's office.

Mayor Newlands: Councilman Booros we can't have a meeting right now, at this point.

Councilman Booros: Thank you.

- 3) Ginny Weeks, 109 Clifton Street: This is sort of my Kumbaya moment. We're coming up to an election and we have four people running; two the council people who will go into place, because there is no competition. It's between Ms. Jones and Mayor Newlands. I arrived here nine years ago, right at the beginning of the Elizabethtown debacle and there were things that were not being done that the citizens wanted. Nobody was against or for Elizabethtown at that time, they just wanted more information on what it would mean to our infrastructure, to our police, and so on and nobody was ever forthcoming with that. Then started a bunch of accusations and back biting. Then Don Post got on and then attacking Don Post became the reason. Then Don Post and attacking Don Post and what was his name, the Town Manager became the cause celebré and innuendos flew all over the place. Now we're going into another election and I'm sure there are going to be accusations and innuendos against this Council and this Mayor. I would ask, especially Councilwoman Jones and Mayor Newlands that you come to the people and you tell them 1) what you think the situation is today, not who caused it, not why it happened, but what is the situation? And you be proactive and you be transparent and you be forward-looking in where this town is coming and you leave the back-biting and the knife stabbing behind us, because I don't know about the rest of you, but I'm tired of it. I'm really tired of it. And I would like to see us be a forward-moving community, rather than a finger-pointing community and I have been guilty of it. I shouldn't be throwing glass... I live in a glass house, but it's time for a change and you can make that change happen. The four of you, whoever you are, can make that change happen and I'm asking you to do that. The other thing I'm going to suggest is that it would be my suggestion, although I don't have a right, but I'm going to do it anyway, that you, when the agenda comes up, that you remove the Personnel Committee charter, because you're not going to form a charter, so it's not on the agenda properly and therefore, true public notice was not given. Thank you.

Mayor Newlands: Thank you.

- 4) Jeff Dailey, Gristmill Drive: I just have one question. I know at the last month's Council Meeting everyone was taken by surprise by the across the board pay increase and maybe my question is best served by the Town Solicitor. Why is that nowhere on this agenda?

Seth Thompson: I don't set the agenda.

Jeff Dailey: Can it not be discussed?

Seth Thompson: It shouldn't be discussed if it's not on the agenda. Again, I'm not the one

that sets the agenda. It's always been my policy that the Mayor and any Council Member can request that an item be placed on an agenda and that's typically done through the Town Manager, who at this point, I believe we are in the process of Mr. Abbott going through and finalizing the agenda and it then gets posted.

Jeff Dailey: Okay, Seth, thank you very much. I guess my question can't be best served by you. Mayor Newlands why is not on the agenda? I'm absolutely flabbergasted that it's not on the agenda.

Mayor Newlands: I'm just going to repeat what Mr. Thompson just said...

Jeff Dailey: I guess you are. Thank you.

- 5) Mike Cote, 304 Gristmill: I guess it's coincidence that I'm following Jeff, but one of the things I had on my list was in all those budget discussions about the pay raise, there's nothing in the Code that allows for that. It's very specific in the Code how you get a pay raise, but yet what's been done, has been done and so we've broken our own law or our Code, and we see no way to fix it. I'm not real big on taking away from the employees, but we've broken our own Code and we can't fix it. I don't know that there's an answer for this tonight, but maybe on the next month's agenda that will be in there and we can discuss it and that will be an item. I did miss last month's meeting and there was an Ordinance proposed about developers and streets. What I heard from that meeting was that the basis of that Ordinance, or the substance of that, basically excluded one of the local developments from being affected by it. That local development would be where I live, Cannery Village. Now, if in fact Cannery Village is excluded from that Ordinance, I'm not sure why we'd try to bring up an Ordinance that excludes 170 homes and probably, figuring two people in each household vote, but not everybody lives here, so 250 or so to 300 voters. It doesn't make a lot of sense to me. And Bob is going to talk later about Ad Hoc, so I won't. And Ed is going to talk about something else, so I won't.

Mayor Newlands: Okay. Bob isn't on the agenda, by the way.

Mike Cote: The Ad Hoc Signage...

Mayor Newlands: Oh that one. I'm sorry, sure.

- 6) Damalier Molina, 330 Behringer Avenue: I just wanted to start... I'm a guy from Wilmington and I hope you guys don't wind up beating each other up. I want to say Happy New Year's to everybody and it's always a pleasure to see you, Ms. Betts.

Vice Mayor Betts: Thank you.

Damalier Molina: Again, everyone has commented to me how nice the corner of Behringer and Atlantic looks. It does look nice, but the issue is the legalities, the statutory and the constitutional issues have not been addressed and they're still outstanding. The use is illegal. It hasn't been approved and I hope we get to the bottom of it. I just wanted to say that. I don't want to say too much, because we're busy tonight and I have a long drive back, so everybody have a good night.

Mayor Newlands: Thank you.

- 7) Ed Kost, 230 Sundance Lane: At the last meeting I attended Mr. Mayor and Council Members, it was brought up that the developers of Cannery Village were served with a notice asking them to make certain corrections, safety problems in our development. This was done twice and the developer has ignored those notices. I was then told by the Mayor that the Town had sent the developer a demand letter requesting a performance bond, which they were originally required to post and didn't... When it was not required to post. They sent back a letter saying that because they had not been requested that it

wasn't asked for at the time of approval, they the Town has waived it's right and cannot get the performance bond. At that point, the Mayor stated that he was going to meet with his team of advisers to determine what could be done next. My question is, what can be done?

Seth Thompson: Mr. Kost, the ball is in my court on that. I've been going through minutes to try and determine... because it wasn't just an argument that... well it was an implicit waiver, but an express waiver; so that's where we are right now.

Ed Kost: I assume there's no statute of limitations involved. This isn't criminal, so I can't imagine how they can waive it.

Seth Thompson: No and I think that's perhaps, I can't put myself in their head, but why they're saying there was an express waiver, as well.

Ed Kost: So at this point, another 30 days I get to come back and hopefully we will get an update on where we're going?

Seth Thompson: I would certainly hope so.

Ed Kost: Then I'll hold this piece of paper for some other time. Thank you very much.

Mayor Newlands: Thank you. Okay, let's call the meeting to order

Vice Mayor Betts: Excuse me, just a minute. I had a message from Kathryn Greig and she would like for me to express her sincere thanks to our Town Manager and his wife for helping them during Sandy, of moving the things. She said she certainly did really appreciate it and she wanted everyone to know what you did. She said, also, that Councilman West came after they got finished, but he was willing to help.

Mayor Newlands: Thank you. Let's call the meeting to order.

4. Call to Order – Mayor Newlands called the meeting to order at 7:27 p.m.
5. Moment of Silence – Vice Mayor Betts
6. Pledge of Allegiance to the Flag
7. Roll Call – Mayor Newlands

|                        |         |
|------------------------|---------|
| Councilman Booros      | Present |
| Councilman West        | Present |
| Vice Mayor Betts       | Present |
| Councilman Lester      | Present |
| Councilwoman Jones     | Present |
| Mayor Newlands         | Present |
| Councilwoman Patterson | Absent  |

8. Additions or Corrections to the Agenda

Mayor Newlands: Do we have any additions or corrections to the agenda? And the Personnel Committee Charter, the terminology Charter, was there so we can discuss what's in the actual Ordinance and what's in the Town Code. It wasn't actually creating any new document. It was just to discuss what was in the Town Code and Mr. Abbott came through with a gazillion pages of information about the Personnel Committee, so I think we should leave it and have the discussion. There's no vote at this point, I don't think we're going to take it; because there's no Town Code Ordinance change, so there's not going to be any vote, most likely during that time period, anyway.

Seth Thompson: Mr. Mayor, the other thing, the Personnel Committee can schedule it's own

hearing. It doesn't need Council to give it permission to schedule its own hearing.

Mayor Newlands: Right.

Seth Thompson: Okay.

9. Agenda Approval

Councilman West: Mr. Mayor, I make a motion that we adopt the agenda, as written.

Councilman Booros: Second that motion.

Mayor Newlands: We have a motion and a second to adopt the agenda, as written. All in favor say aye. Opposed. Motion carried.

10. Presentation and Approval of Minutes: September 18, 2012 & December 3, 2012

Mayor Newlands: Okay, we have minutes from September 18<sup>th</sup> and December 3<sup>rd</sup>. Does anybody have any issues with those? Can we get a motion to approve the minutes?

Councilman Booros: Can I ask a question before... A little bit of discussion here?

Mayor Newlands: Sure.

Councilman Booros: Why are we just receiving the September 18<sup>th</sup> minutes in January?

Mayor Newlands: She's just get caught up, from what I hear.

Vice Mayor Betts: Is she on full time now?

Mayor Newlands: She's still a part-time person. We don't need her full-time.

Vice Mayor Betts: I thought something was mentioned about full-time.

Mayor Newlands: She's an employee, but a part-time employee.

Vice Mayor Betts: Just part-time.

Mayor Newlands: Right. Can we get approval of the minutes?

Councilman Lester: Mr. Mayor, I move we approve the minutes of September 18, 2012 and December 3, 2012.

Vice Mayor Betts: I'll second that motion.

Mayor Newlands: We have a motion and a second to approve the minutes of September 18, 2012 and December 3, 2012. All in favor say aye. Opposed. Motion carried.

11. Discussion on Written Committee Reports

Win Abbott: Mr. Mayor, although you don't have written committee reports, I would like to offer this opportunity at this time for a representative of the Economic Development Committee to make a report.

Mayor Newlands: This is the one that you just handed out?

Win Abbott: Yes, Sir.

Mayor Newlands: Who's going to make this?

Win Abbott: Mr. Donnan.

Mayor Newlands: Okay.

Alex Donnan, 103 Pine Drive: Good evening. The Economic Development Committee has been working this year on signage for the town. There's not many signs in town, which we all recognize and it was a major effort to put together a list of the signs and DelDOT is the primary State Agency that you have to deal with. They design the signs, they install the signs, and they tell you all the rules that you have to meet in order to get the signs. The major problem, however, and we're looking for something like 20 to 21 signs; most of the signs would be Welcome signs. Some of them have been destroyed out on Route 1 and a lot of signs would be attraction signs, saying Why Come to Milton, which includes the Library, the Museum, the Memorial Park, fishing, boat launching ramps. All those things are considered attractions. The problem is money. In contact with Milford's Main Street Committee and others, I found out that USDA may have funds for signage, which requires a grant request. The grant request runs

around 20 pages. It theoretically has to be done by the Town. I will be glad to do everything I possibly can to fill out that grant request, other than the items that the Town has the information for, the certain special numbers and whatnot that have to be in there. So what I'm requesting the Council to do, is to approve moving ahead with this grant request, so that we can move into USDA and see if there are funds available for this, because they do have funds for many of these smaller communities for signage and many other types of projects; it's an odd thing for USDA, but that's the way it is. So that's really the request, to let us move ahead with this grant request so we can get the funds to put the signs in and let's get this town "signed" up.

Mayor Newlands: Before you go, I thought DelDOT paid for some of the brown signs or green signs, whatever they're called these days?

Alex Donnan: No, they design them, but they don't necessarily pay for them. I actually have a request into DelDOT also, through the Department of Tourism, through Mrs. Remalot. She said, well, we might have some funds, we may not; give us a very minimal request, so I gave them a five sign request. It overlaps a bit, but they will be ahead of the grant request, anyway. So we're following that route too. If we get the signage request, then we're in with DelDOT fully, because they do everything and they tell you what's okay and what's not okay.

Mayor Newlands: But does DelDOT run the brown signs? Who runs that project?

Alex Donnan: The Department of Tourism. It starts with Tourism and they work with DelDOT. Once Tourism agrees, then it goes to DelDOT and they do all the legwork and the installation and pricing and all the rest of it. These signs run \$800 to \$1,000 apiece, so it adds up to a lot of money.

Mayor Newlands: Now they're generic as far as Historical Society, Library, Fishing, things like that?

Alex Donnan: Yes, it has to be a symbol.

Mayor Newlands: You can't put the brewery... Okay, so it's all symbols, there's no names of businesses, or anything like that on it.

Alex Donnan: Yes, it's changed. It used to be brown signs, now they're called blue signs.

Mayor Newlands: So they're blue signs. Okay.

Alex Donnan: Any other questions?

Mayor Newlands: No, thank you.

Win Abbott: Mayor and Council, just as an addendum to that, we have three new parking signs that were installed today.

Mayor Newlands: Where were they?

Allen Atkins: If I'm not mistaken, one was down by the Library, one was across by the Farmer's Market and there was one up by the bank.

Mayor Newlands: Oh, this is for the municipal parking lot, to show where the parking is.

Allen Atkins: Just arrows that point to the parking.

Mayor Newlands: Okay, great. Great. Okay.

Councilwoman Jones: A question. What kind of action actually do we need in order to begin a grant process, now that it's been brought to the attention of Mayor and Council and the Town Manager?

Mayor Newlands: If Mr. Donnan is going to fill out the paperwork, once he fills it out, we can submit it and get it signed. It doesn't need to come before Council.

Councilwoman Jones: Okay.

Mayor Newlands: Because we're asking for "free money".

Councilwoman Jones: Okay, well, there...

Seth Thompson: It might make sense for the Economic Development Committee to take some formal action on it, though, to approve it going forward, so that there is...

Councilwoman Jones: We did, that's how this recommendation got to you. They agreed by



themselves.

Seth Thompson: Right, but once the grant is completed, if Economic Development would review it and then give it's stamp of approval, I think that might satisfy the requirement that it be coming from the Town.

Councilwoman Jones: Okay.

Mayor Newlands: Okay, no other committee reports.

12. Town Manager Report

Win Abbott: Thank you Mr. Mayor, Council and the public. I think we all know that we have upcoming elections that the opportunity to file for election passed on December 31<sup>st</sup>. We have Clifford M. Newlands and Marion L. Jones contending for the position of Mayor. John Collier and Michael A. Cote have filed for the positions of Councilperson, for which there are no contenders for those two open seats. The Board of Elections will meet soon, in order to confirm this ballot. There will also be opportunities for citizens to register at Town Hall for participation in the election, January 19<sup>th</sup> and 26<sup>th</sup> are Saturdays when the Town Hall will be open until noon for persons who might not have the opportunity to do that during the regular work day. Mr. Atkins, to my left here, will be retiring at the end of this month. He's been with us for eleven years now. Allen is a hard working and modest guy. You wouldn't know it, but he's a National Leader as President of the Delaware Rural Water Association. There are only 49 other people in this nation that participate at the same level in the National Rural Water Association, America's largest utility membership. In the meantime, we're looking for somebody to fill Allen's big shoes. The opportunity to file for his position ended on December 26<sup>th</sup>. A number of applicants filed. I have named Councilwoman Patterson as my co-interview person. The selection of the Town Manager will go before the Town Council for an affirmation for a person in the Director level position. You'll see in the back of the Town Manager's Report that there is some reference to the Shipbuilder's Village Community Center. The Council has yet to make a decision...

Mayor Newlands: Can we back up one second and give a round of applause for Allen.

Win Abbott: I'm sorry.

Mayor Newlands: That's okay.

Win Abbott: The Shipbuilder's Village Community Center - something that we all know has been on the table for quite a number of months now and the Council has not yet decided whether or not that they want to purchase the facility or exactly what they would do with it. I want to urge the Council to make a decision. I'm gathering even more information now on what it would cost to rehabilitate the existing structure and depending upon your decision on the path forward, I would like to ask the Council at some point before April, to make a decision whether or not we're going to cut the grass and how we're going to deal with that, so it doesn't become a contentious issue next summer.

Mayor Newlands: Let's make sure that gets on next month's agenda.

Win Abbott: Thank you. I would appreciate that. And then of course, there are references to the referendum. With respect to the questions posed by Ms. Jones in our public participation, the Town Council made a cautious decision to take money offered by the State Office of Drinking Water to have a consulting engineer funded by the State of Delaware to revise our plan, that was about five years old and the revised plan and the contract for those services, required that we make an application for funding under the next referendum and so one thing follows another. Of course, we're doing our due diligence to make sure that we communicate with the public and do everything possible to make everyone aware, but this is all part of a process that has been publicly vetted and been ongoing for quite a number of months now. And the details regarding how things might play out, are detailed within the Town Manager's Report this month. That's all I have for you. Thank you.

Mayor Newlands: Just to go along with that, I've been asked a few times why we're coming up and looking for another referendum since the first one failed. We put a survey out to a number of people who participated in that referendum and the resounding results, were that they turned us down, because they wanted to know where all the missing water was first; so we did all of that and Allen's staff has been diligent in getting out and replacing meters and doing quite a number of things. We've leak tested the entire town. There are no leaks anyplace in town, so we're doing what the people asked. They turned us down for the water referendum, because of the missing water, so now we're getting a good accounting of all that missing water right now.

Win Abbott: Yes, and to piggy back on what you said Mr. Mayor, we do not yet have the results that we desire from all this effort, but the fact is that the townspeople had a good argument, that we were not being diligent in the management of the system, up to that point and regardless of the fact that this proposal had been in the works for some four years before that, we weren't doing the work that was appropriate before moving forward. We've been doing the work. We look forward to having results to report in the next month. One of the key things that is left, is the installation of those better check valves and more accurate meters at each one of our wells; so we're not over-reporting the amount of water that we actually pump into the system.

Mayor Newlands: Those check valves are here, right, they're not installed yet.

Win Abbott: They're in, but not installed, and they should be done by the end of the month.

Mayor Newlands: Are the meters here at least? Okay.

Councilman Booros: For the record, can I also state that the people in the town that got that survey, also were not aware that the State did not allow us to pump more water out of the ground. We had applied for an application to pump additional water out of the ground, so we wouldn't fall short in the summertime and we were denied prior to that referendum and the people of this town were not made aware of that by the engineering firm that gave all those Public Hearings, so in your questionnaire, Mr. Town Manager, it did not... There was more than just the missing water going on there and I think a lot of people that answered your questionnaire, that may not come to these meetings on a regular basis, still don't know that we're not allowed to pump additional water out of the ground.

Win Abbott: You're correct.

Councilman Booros: I know I am.

Win Abbott: All I can tell you is this, through the survey, the monthly reporting that we've been doing, through the committee meetings and so on, through the Town Manager's Reports, we've been very diligent and communicating everything possible about this. Now, it's true we exceeded our allocation. Exceeding our allocation and being not allowed to do as such, it's a gray area. What they want is for the Town of Milton to meet the State of Delaware standards for average consumption, per person, of 100 gallons per day. We have exceeded that. So it's not truly about our allocation permit by our wells, it's a big picture vision here.

Councilman Booros: I understand that.

Win Abbott: And this thing about average use per customer per day is what we're getting down to. I make mention in the financial report about one other thing that was put into that reply, with regard to us increasing our allocation, and that is of having a progressive schedule for water rates. That is something that they put out there. They reminded us of. I'm communicating this to the public. It's to try to make people more cognizant of the fact that we're all in the business of conserving this resource. The aquifer is not going to run out of water, but the State of Delaware has certain standards for consumption that we should all try to live by and we're all working in various ways to try to make that happen.

Councilman Booros: I understand.

Councilwoman Jones: Mr. Abbott, equally as important is the Mayor asking that the Shipbuilder's Village Community Center make it on next month's agenda. This COPS Grant

letter of December 27<sup>th</sup>, I most definitely would ask that this be placed on next month's agenda, as well as this communications memo indicating some of the information that took place when the 3% across the board raises were given, and I know that the public asked for that tonight, but I'm definitely asking for that to become part of the discussion in February, please.

Win Abbott: Yes Ma'am.

Councilwoman Jones: Thank you.

Win Abbott: With respect to our public, those here in attendance, some matters are quite complex and I want to give the Council an opportunity to digest this stuff, as the Mayor has indicated I put together a lot of stuff and certainly the next meeting would be an appropriate time to discuss that, where everybody's up to speed.

Councilwoman Jones: Thank you.

Mayor Newlands: And we did get a response from the COPS Grant people on Friday?

Win Abbott: I did, but that's rather uncertain at this point.

Mayor Newlands: But they're initially saying that we need to keep the officers.

Councilman Booros: But we also did not and I saw a few of those things...

Councilwoman Jones: Yes, based on the letter we sent...

Councilman Booros: Based on the letter we sent, based on the emails that were sent and went back and forth and based on a conference call that we don't know what was said on the conference call; I've got a problem with it and I think it needs to be on next month's agenda, because I'm going to do some phone calls myself.

Win Abbott: Wonderful, we'll put it on next month's agenda.

Councilman Booros: Because I've made the phone calls in the past and didn't get the same answer and I'd love to make the phone calls in the future.

Win Abbott: It will be on the agenda, Sir.

Councilman Booros: Thank you.

Win Abbott: My pleasure.

Mayor Newlands: We have the information here for a PTA, also. This is just... You gave us information for the assessment.

Win Abbott: Yes, Mr. Mayor, this is not on the agenda. It was supplemental to the Town Manager's Report, to the Town Council. There were quite a number of people who had filed for a property tax assessment appeals and there was not enough time to prepare all the responses to that on the part of our assessor. That has been rescheduled for February 4<sup>th</sup> and what I did was make the Council available, the communications and all the things that we're doing to bring together the Charter mandated requirements of our assessor and the performance requirements in our contract with PTA, so we should be ready for that on February 4<sup>th</sup>.

Mayor Newlands: Okay, great.

13. Department Reports: Public Works, Project Coordinator, Code and Police

Mayor Newlands: Let's move onto the police reports. Any questions? The Chief is here, but he just happens to be outside. Any questions on the police report? I'll take that as a no. Let's go to the maintenance report? I'll take that as a no. Code Department?

Councilwoman Jones: Question. One is a follow-up for Robin. I asked a question about Mr. Copan's property on Federal Street and where that... not only the building of that shed, which is what I can only assume is what he pulled his permit for, but the very condition of his home, which is a beautiful, historic home, is not looking too good and I just want an update.

Robin Davis: I had, Mike Trotta, the Code Enforcement Officer speak with the owner, Dan Copans. He's actually a full-time resident of California and he comes here several months. He had a meeting with Mr. Copans. Mike has been out last week, off and on. His father was in an automobile accident, so I didn't really get a chance to follow up that much with Mike, but I

know that he has been in contact with Mr. Copans and discussing the issues with the carriage house building and the condition of the house itself.

Councilwoman Jones: When you get a permit for that improvement, how long is that permit good for?

Robin Davis: A permit is good for one year, and then the owner can request a one-year extension.

Councilwoman Jones: Time wise, we'd already be into a one-year extension, wouldn't we?

Robin Davis: Correct. Yes, Mr. Copans did ask for an extension I think in October, so his second year will be up in October, correct.

Councilwoman Jones: And the other question is a follow-up to the Dry Zone issue. I think your site visit was supposed to be in November. Did it happen? Because I didn't ask the question in December?

Seth Thompson: It was.

Councilwoman Jones: Has a determination... When are we going to hear about your visit?

Seth Thompson: The ball is in the attorney for Dry Zone's, I shouldn't say the Lawson's, the property owners court. Their position is basically they haven't just been a manufacturing establishment, but they've also been an establishment, pre-dating our Code, pre-1987, I believe; they provided off-site site work; therefore, I've asked them to provide documentation to that effect. Obviously we don't want to prosecute somebody that seemingly is within the Code, not the best allocation of resources; but I've asked for documents to support that, rather than just their self-serving testimony, so to speak, so tax returns showing depreciating trucks, advertisements, that sort of thing. They have not... I spoke with their attorney the week between Christmas and New Year's. He said his client was away and that he would get back to me after the first of the year.

Councilwoman Jones: The reason was when I was doing the public participation and reading the minutes this time, it was actually, it was Mr. Welu that made a point that really struck a memory chord and that is that the land right now where they are storing, above ground, their stuff, whatever that stuff's definition is, which by 1986 approval of the County Planning and Zoning says they cannot do, that land had a building on it. He was absolutely right. It could not have been part and parcel of the approval for the Conditional Use or the permitted use when it came before the County Council. It had another building on it.

Seth Thompson: I'm sorry. I don't know what you mean. The only... I believe the only items being stored on there now, appear to be some sort of concrete...

Councilwoman Jones: It's above the ground. The initial, which we keep debating, says no storage and debris above ground.

Seth Thompson: Right. No outside storage.

Councilwoman Jones: Right, which they're continuing to do in those make shift Jersey barriers, so whatever else we're doing simultaneously, that original agreement or permitted use by the County, is still being violated.

Seth Thompson: Having spoken with the Lawson's and their attorney, I think they're willing to deal with the outside storage, but I view that as somewhat of a tangential issue in terms of whether the use is actually permitted. Do you know what I mean? That in essence...

Councilwoman Jones: The business is permitted?

Seth Thompson: That's exactly right, that if they're doing something that isn't permitted, the outside storage issue, it doesn't matter if the town approves them, if they put roofs on it, because they're using it for off-site work. Do you know what I mean?

Councilwoman Jones: No I don't. I know that when you go by the corner of Hazzard and Atlantic Avenue it looks like a construction storage yard. That's what it looks like.

Seth Thompson: I think they're using that material for their off-site work, as opposed to the

manufacturing that is occurring on site; so, let's say, indeed back in 1986 it was truly and purely manufacturing and they're not able to show us anything otherwise, the town's position is going to be you need to remove that, or cover it up, I suppose; but they wouldn't cover it up in the sense that it's being used for something that isn't manufacturing related. You know what I mean? So it's kind of a secondary condition. It's not really the primary issue.

Councilwoman Jones: No, what it is is an eyesore. I don't care how you legally try to explain it. It is storage of what looks like concrete or leftover debris from their line of work, brought here and dumped into those until I don't know what happens to it when they suddenly become empty. It is an eyesore.

Mayor Newlands: I think that will get rectified as soon as this other stuff does and I don't think going after them for that thing, is going to be prudent, when we're still working on the other stuff first, so... And that's what he's doing.

Councilman Booros: So Robin, before we leave, Robin, and I apologize for not getting this information, is there something in our Code that talks about allowing something in the Historic District to deteriorate by neglect, or whatever the heck it is?

Robin Davis: There is something in the Code about that.

Councilman Booros: The reason I'm asking this, is I had an opportunity in the last few weeks to tour the theater and I assume the theater is in the Historic District?

Robin Davis: Yes, it is.

Councilman Booros: Okay. It has mold literally – they've pulled up the carpet – it had water damage so bad that there's mold about two foot up the wall all the way around the little building to the left of the theater. You could see the mold growing out of the concrete, on the floor. It's absolutely deteriorating. A bank owns it. I would assume that some bank needs to be notified that the least they could do is to put a dehumidifier in place or call in Service Today or something. While we're on that side of the street, it got brought up about a year and a half ago about the little Jailhouse building that has the ivy eating the mortar out of the bricks. I understand that woman passed away. That's what I heard, I don't know.

Mayor Newlands: That's correct. I think it's in an estate now. So I don't know.

Councilman Booros: Well don't you think we could tell the estate that if they don't fix it up, that if they continue to let it deteriorate, there are fines, listed in the Code, that they could be fined with and especially that theater. That building's going to collapse if that bank doesn't do something and if it means the bank needs to sell it, maybe it's time the bank just bends over and sells it. It's their business, but it's falling down, it's a mess... the inside. I don't know about the outside.

Mayor Newlands: Are you talking about the theater, or...

Councilman Booros: I'm going back and forth between the theater and the jailhouse.

Mayor Newlands: The theater is on the market.

Councilman Booros: I know it's on the market, but in the meantime they're letting it just deteriorate. It's just...

Mayor Newlands: I thought there was a company in there every two weeks, inspecting that? There was supposed to be.

Councilman Booros: Literally you could look in the window and see the mold growing up out of the floor and I honestly thought it was something like drywall dust or something, because it's this thick and it's the white mold growing out of the floor.

Mayor Newlands: Okay.

Councilman Booros: I thought maybe it's a salt deposit; it's not salt, it's mold.

Councilman Lester: Mr. Mayor, before we leave this subject, can I get in two cents? There's a project I've taken on personally for about three years and I've gotten nowhere and that is this piece of property on Mulberry Street, that's self-destructing, being given all kinds of stories why

we can't have it torn down. We keep talking about this charming little town. It's so far from charming, it's awful. That house needs to be...

Councilman Booros: I think it's owned by the people that live next door between Kathryn Greig and...

Councilman Lester: Is it?

Councilman Booros: Yes.

Councilman Lester: Well I'm not sure if it was Mike or the Code Enforcer preceding him said the owners wanted to rebuild that. I'm not sure how they can rebuild that.

Councilman Booros: I think that was the original house. I was on the house tour once and talked to the owners and they said, yeah, we had bought that house to rebuild and it was just such a mess that we realized that it was too much to rebuild so we bought this one.

Councilman Lester: It has to be a health hazard, that house. Absolutely a health hazard.

Mayor Newlands: Okay. Well it's got boards missing; the crawl space is exposed.

Councilman Lester: Can we get it torn down in the next month and a half and also that house on Union Street should be demolished, the one's that has been up for sale opposite the...

Mayor Newlands: The little white one, 207?

Councilman Lester: Yes.

Mayor Newlands: Yes, I agree.

Councilman Lester: That hasn't been inhabited I understand for 30 or 40 years, so... Anyway, that was my two cents. I've tried not to bring it out in the public, but I thought...

Mayor Newlands: He's taking notes about all this. Robin's got notes about all this.

Councilman Lester: Robin's been taking notes for a long time on this. I mean, I've been harassing him for a long time.

Mayor Newlands: Okay.

14. Finance Report and Revenue/Expenditures Report

Mayor Newlands: Next is the Finance Report. Did you want to say anything?

Councilman Lester: Yes. Mrs. Rogers and I went over the financial reports. Actually we have one item coming forward, which does not affect these reports, but is in the balance sheet, for some reason going back for years, we haven't been able to reconcile that. It's Miscellaneous Accounts Receivable. Otherwise, as with this year getting a clean audit report, the books will be in good condition. We're able to reconcile now taxes, receivable, and water bills to the detail, which is something that has not been done for three years or more.

Mayor Newlands: Which is this?

Councilman Lester: Being able to reconcile the detail of Accounts Receivable, who owes money to the books and that's a huge step forward, so we're getting to the point where reconciling books every month is getting easier and easier.

Mayor Newlands: When is PK&S bringing in the audit? When are we going to get the management letter for the audit from PK&S?

Councilman Lester: I haven't heard back. Mr. Abbott contacted them and I got a copy of that email. I haven't heard back when they're going to come in for the final exit interview.

Win Abbott: In the next week to ten days we should have our MD&A meeting with PK&S regarding the most recent year's audit.

Councilman Lester: Okay and if I may, I've discussed this with Mr. Abbott and he suggested I bring it up tonight. We do need to file a complaint with the American Institute of CPA's. I told Mr. Abbott I will prepare the documentation. I have most of the documentation and the cover letter necessary and I have information that's been supplied by the Auditor of Accounts Office. Does this need to go on the agenda next month?

Win Abbott: It does and it will.

Councilman Lester: Okay. Presuming that we can move ahead, I will complete the documentation so we can move quickly.

Mayor Newlands: We just have to vote on it at the next meeting, so if you can have it done before that, that would be great.

Councilman Lester: Right.

Mayor Newlands: Okay.

Councilman Lester: Yes, before I get busy I'd like to finish it.

Councilman Booros: While I was reviewing this, I spotted something on Page 12 of the Budget Transaction Audit Trail. You don't have to look it up, it's going to be real simple. I noticed that we have checks going out to CABA Associates and I assume they're still our Town Engineering firm and it's pass through money, or whatever it is that I guess people that are building to.

Robin, here's my question for you. Do we have a contract with CABA Associates for this or are we just still using them?

Robin Davis: I'll probably have to let you talk to the Town Manager about that. I know the town at one time, did have a contract with CABA Associates and I'm not sure if that's current, or not.

Win Abbott: We have a non-exclusive agreement. Our work with CABA Associates is on an as needed basis. We've been using them for our planning needs. Likewise for Pennoni Associates we have a non-exclusive agreement. They were named as our consulting engineer for the water improvements project and they were selected as the engineer for the very specific streets project and for that, we have a particular rate schedule...

Councilman Booros: Then we don't have a contract with CABA Associates?

Win Abbott: That's correct.

Councilman Booros: That's all I was asking. My next question was, I had asked months ago that CABA Associates come before this Council and explain why they never mentioned during the water referendum Public Hearings the missing water, or the fact that we had already been turned down by the State and I still haven't heard from CABA Associates.

Win Abbott: Would you like that on next month's agenda?

Councilman Booros: I would love to hear before we go into another referendum, why none of this information was given to the public, because they got a copy of that letter.

Win Abbott: Okay, just to be sure now, the next referendum has nothing to do with CABA Associates. The town has named Pennoni Associates...

Councilman Booros: I'm talking about the last referendum. Before you ask this Town to go into another referendum, they need to know that they were misled during the last referendum.

Win Abbott: I understand. Okay.

Councilman Booros: And make sure that they aren't misled again.

Win Abbott: Alright. So we'll have a presentation by CABA Associates regarding their services at the next meeting?

Councilman Booros: I just... Whatever.

Mayor Newlands: Is it the services, or just about the water issue?

Councilman Booros: I mean, after that issue, I'm wondering why we're still using their services, quite honestly, and I'd like someone to explain that to me.

Win Abbott: Okay.

Councilman Booros: That cost this town a lot of money to go through that referendum, without all the information and that information... they knew that information. They conducted those Public Hearings in this library and that information was not given to the public.

Win Abbott: Very well, Sir, so we'll have an item on the agenda next month for CABA Associates to have a presentation...

Councilman Booros: If they still want to do business with the Town. If they don't want to do business with the Town, I don't care whether they come back and tell us or not, quite honestly.

Win Abbott: Sure, but just to be sure, the town has selected Pennoni Associates for the next water improvements project and that's a different issue.

Councilman Booros: I understand that. I understand that. Different issue.

Win Abbott: Okay, very well, thank you.

Councilman Booros: But I asked several months ago. That's why I brought it up again.

Win Abbott: Understood.

Mayor Newlands: Did you want to go over anything on the finance report?

Win Abbott: Mr. Mayor, I covered both sides of a piece of paper. I think it's pretty clear, when looking at the financials for last year vs. this year, there's a big difference and the difference is almost entirely explained by the fact that we had three pay periods vs. two.

Mayor Newlands: Okay.

Win Abbott: That's it.

Councilwoman Jones: Mr. Abbott, I have just one question on Page 1. It states that a November 2011 payment was not recorded in that month, the Employee Insurance Benefits, is that 2012, is my first question?

Win Abbott: We're comparing 2011 to 2012, so it's two different fiscal years.

Councilwoman Jones: Okay. When was that recorded?

Win Abbott: If you would like a date, I can give it to you.

Councilwoman Jones: Well, just that it wasn't paid in it's regular rotation, is that right?

Win Abbott: Yes, that's part of the reason why the numbers look different. They didn't appear within that same period.

Councilwoman Jones: Okay.

Win Abbott: We'll probably see that there were two payments that were recorded in December of the prior year and then it will all balance out. But when checking out the difference between the performance on a year-to-year comparison, that explains it.

Councilwoman Jones: Thanks a lot.

15. Old Business – Discussion and possible vote on the following items:

a. Water System Improvements monthly update

Win Abbott: Mayor and Council the information that you received was incorrect and incomplete. It was not available at the time that... Everything that you had asked for is not available at the time and then we had one month's worth of data reported, rather than two. I'll be happy to... I think we've got all the information as of today. I'll be happy to provide that to you tomorrow and post it on the website, but what you have before you is not accurate. That's all I can say.

Mayor Newlands: Yes. I would like that to go to Council so we have that ahead of time. So as soon as that's available, can you just pass it around to Council?

Win Abbott: Yes, Sir.

Mayor Newlands: And we have what about 17 meters left to be installed?

Win Abbott: Yes, 17 exactly.

Mayor Newlands: Okay.

b. Shipbuilder's Village paving project funding authorization

Mayor Newlands: When we initially received an estimate from Jerry's Paving, they did about five streets within town. They gave us an estimate in the low \$40's for paving that area, that did not include, and we didn't know this at the time, it did not include the sub-structure work that had to be done on the streets out in Shipbuilder's, so when the estimate came in after the engineers went out there, the estimate came back in at \$62,750, which was the lowest bid. That's around \$19,000 above what we had originally



thought we were going to pay? Okay. Can you go through the finances?

Win Abbott: Yes, Mr. Mayor, I think you have a memo before you that says first of all in August, 2011, the Town of Milton received a legislative grant of \$91,949 for street improvements. The specified project was completed at less than the estimated cost. There was a \$23,031.60 balance in this grant. I've made contact with this office since then. There's a slight discrepancy, about \$500 between what we think and what they think is left in the grant. It's very close.

Mayor Newlands: That's fine.

Win Abbott: So each year the State of Delaware provides grants for streets, sidewalks, street lighting, related expenses. A portion of this fund is restricted to capital improvements, so the Streets and Sidewalks in the Town of Milton receive \$12,780 in fiscal year 2012, which was not used. It's received another \$12,673 in fiscal year 2013. When you add all of these together, there is a \$14,265 difference between the minimum base bid and the available capital funds through grants alone. Now back in January, 2012, Jerry's Paving provided a \$41,948 estimate for the paving in the selected streets and you can see the detail on what we have on our cash flow plan here. It is requested that \$72,650 be authorized for the Shipbuilder's paving project. This includes these contingent items of raising a couple of the manhole covers and making some curb improvements with cutouts, that were necessary and would be necessary. You'll see on the reverse of this, a one page copy of the approved budget. Any approval by the Town in excess of the \$43,000 which was approved for the budget of this year, would not necessarily change the budget, it would just be an authorized expenditure. If we were to make any change in the actual budget, that would occur at our six-month interval.

Mayor Newlands: The \$9,000 contingency, who is proposing that kind of money, the contingency?

Allen Atkins: The contingency part was for repairing the curbs that are cracked and damaged out there.

Mayor Newlands: But that wasn't part of the original...

Allen Atkins: That's not part of the paving costs, no.

Mayor Newlands: No. So our actual cost is going to be \$72,000, that we need to approve?

Win Abbott: Yes, Sir. Once again, for some things, we really do depend upon our engineers to provide the expert opinion. If I'm not mistaken, the curbs help to hold the streets together, where they are, so part of the extra expense was having to do with the fact that through lack of maintenance over the many years, that the base has deteriorated. That added an extra \$10,000 to the cost of doing the job right. These contingent items similarly will help to diminish the cost of maintaining the roadway over the long term.

Mayor Newlands: Okay. So we have about \$28,000 that we're going to ask for, above and beyond the grant money?

Win Abbott: Yes, Sir, this is true. You will note, the cash flow projections with regard to what our utility bills are. There is a point in time when we get to just before June and July of next year, where if we use all the monies straight out of our Municipal Street Aid fund, rather than our General Fund Savings Accounts, where it includes our realty transfer fees, which do cover these capital improvements, if we use all that money, then we wouldn't have the money to pay the electric bill. It's all a matter of determining where you want to draw the money from, having it in our savings account where our realty transfer funds are and is a legitimate expense for, is the preferable option, so that we have the money out of Municipal Street Aid funds in order to pay for the streetlights,

which is an ongoing expense.

Mayor Newlands: Okay.

Councilwoman Jones: Mr. Mayor, what was the figure you came up with, which was over and above the budgeted amount?

Mayor Newlands: Is that the number there, \$23,368, on the bottom of Page 1?

Councilwoman Jones: \$23,368.

Win Abbott: No, the \$23,368 refers to our current realty transfer tax income. This is put in there so that you have an idea of the fact that what was budgeted for this year in terms of the realty transfer tax income is following the trend; with 17% of the year already gone by, this is our new fiscal year, we have received an equivalent amount in realty transfer taxes. So the point of putting that number in there is to indicate to the Council that the housing market hasn't tanked to the point that we are going below, even our conservative estimates for what our income would be for this year. That, in addition to whatever we have in the bank, that our income from realty transfer taxes, which covers capital expenditures, is continuing on the trend that was predicted.

Mayor Newlands: The number I'm talking about is about \$24,000.

Councilwoman Jones: Okay.

Seth Thompson: I think you guys were talking about two different numbers, though. Councilwoman you were referring to the difference between the budgeted figure and Mr. Mayor you were referring, I think, to the difference between...

Councilwoman Jones: Yes. But he's close, it's about... It's close to \$28,000 something.

Robin Davis: \$29,650.

Councilwoman Jones: \$29,650.

Mayor Newlands: Okay, thank you.

Councilman Booros: \$29 what?

Councilwoman Jones: Okay.

Robin Davis: Between the \$72,650 and the \$43,000...

Mayor Newlands: And the budgeted... Okay, I was doing a different number. Okay.

Robin Davis: It's \$29,650.

Councilwoman Jones: Thank you.

Mayor Newlands: I'm sorry. So we need to get a motion to approve the contract, approve the money, approve the overage, and approve Jerry's Paving. They won the contract, they won the bid.

Councilman Lester: Mr. Mayor, I move that we approve the contract provided by Jerry's Paving and Excavating for the work to be done at Shipbuilder's Square in the amount of \$72,650.

Councilman West: I'll second that motion.

Mayor Newlands: We have a motion and a second to approve Jerry's Paving for Shipbuilder's Village for the amount of \$72,650. Any discussions?

Councilwoman Jones: Just an understanding, this money is going to come out of the General Fund.

Win Abbott: It won't come out of the General Fund. First of all, just to be sure, in our effort to provide more transparency in this fiscal year, all the funds from grants and whatnot are shown as revenue into the General Fund and then expenditures are coming out of the General Fund. There will be sources from this, that come from grant income, but it will all go through the General Fund, so I just want to be sure... There is going to be a full accounting at the General Fund level, however, revenue to cover these expenses will come from two different grants, plus General Fund revenues, which include realty transfer taxes. I just want to be clear about that.

Councilman Booros: As far as discussion, I'm not one to say that I would approve almost \$30,000 two months after we just approved a budget; that wasn't budgeted for then. I have heartburn with the fact that we didn't see that, however, since this is Shipbuilder's Village and they've been flooded and they haven't had streets in fifteen years, I don't have a problem with this tonight. I think we should have anticipated this, maybe a little bit better, but those people deserve it.

Mayor Newlands: The original budget money was from Jerry's Paving. They went out and did an assessment, not the engineers, so that's where the difference came in.

Councilman Booros: Gotcha.

Councilwoman Jones: And our engineer agrees?

Mayor Newlands: Uh-huh. Actually the engineering and the bid were I think \$1,000 apart, wasn't it?

Councilman Booros: Right.

Mayor Newlands: The engineering estimate and the lowest bid were about \$1,000 apart.

Councilman Booros: Okay.

Mayor Newlands: Okay, so we have a motion and a second to approve Jerry's Paving and Excavating. Any further discussion? Let's do a roll call:

|                    |     |
|--------------------|-----|
| Councilman Booros  | Yes |
| Councilman West    | Yes |
| Vice Mayor Betts   | Yes |
| Councilman Lester  | Yes |
| Councilwoman Jones | Yes |
| Mayor Newlands     | Yes |

Mayor Newlands: So the motion is carried. If the weather holds, they can do this probably soon.

Councilman Booros: We can get those people some streets.

c. Cannery Village signage issue monthly update

Robin Davis: Mr. Frazier, before you start, I actually had a phone conversation with Mr. Frazier today. I had sent an email to Megan, she's in charge of Sussex County 911 Addressing and at the last meeting that we had at the Cannery Village Development, Megan was working to try and get the EOC Director, Joe Thomas, to come out and maybe give us a little more insight on some of the signage issues. Due to the storms and the Christmas holidays, that was kind of pushed off a little bit, but I did get a call back from Megan this afternoon. There's a tentative meeting scheduled on the 17<sup>th</sup> of January at 10:00 a.m., but I need to get with the Committee members and find out if that's fine. So I don't know if you have more to say.

Bob Frazier: That's pretty much what I was going to say. Thank you very much, Robin. I was just going to offer an apology. In August you all were kind enough to come out and walk the area with us and then in September, during that meeting Mayor Newlands and Councilwoman Jones requested that we get Ms. Nehrbas, who's 911 Addressing Office Manager for the County and then she subsequently asked for us to get input from the Emergency Management folks and that's what's been the hold up. So we haven't ignored it. It seems like every month we've been saying no input, no input, no input, so I apologize, but hopefully now we can get it moving along and we can bring this thing to some conclusion, as far as our recommendations are concerned, and get your take on this. That's where we stand.

Mayor Newlands: Great. Good. Thank you.

16. New Business – Discussion and possible vote on the following items:

a. Revision to setback condition on Heritage Creek Master Plan

Mike Kobin, George, Miles and Buhr, the engineer for Heritage Creek: We're before you this evening to ask that one of the conditions in the Master Plan be revised. Recently a revised plan was reviewed by the Planning and Zoning Commission on November 20<sup>th</sup> and one of the main features of the change was that a lot more of the homes are now front loaded, meaning that their garages and driveways will be from the streets, rather than from alleys. The Planning and Zoning Commission wanted to assure that those homes would have ample space for parking in front of the garages in the driveways, so they asked that the front setback that was 5' everywhere in the development be changed to 22' for the front loaded homes and that we distinguish between the two.

Mayor Newlands: Did you want to say anything, Ben? No. I didn't know if he wanted to make any comments, or not.

Seth Thompson: Did you want to ask Bob?

Mayor Newlands: I don't know if Bob Kerr wanted to make comments either.

Seth Thompson: Mr. Mayor, I was at the Planning and Zoning Commission and they recommended that it be approved at the 22'. Robin, I don't know if you have anything further about...

Robin Davis: No, not really. Again, the memo that was passed out with the packet stated that the Planning and Zoning did have a meeting and discussed several issues and one of the issues was the addition of a new setback requirement because of the changes to the driveway access to some of the parcels. I think, originally, the applicant had said something in the 20' range. The comments from our Town Engineer, CABA Associates, was looking for 25'. Planning and Zoning discussed it and they came up with a median figure of 22'.

Mayor Newlands: And this, again, is for all of the homes with garages in the front.

Mike Kobin: Just front loaded. Rear loads would still remain 5' and that revision is reflected on the cover sheet in the package that you have.

Robin Davis: And that's the reason that it has to come to Council. The conditions that were put on the notes of the plans, were approved by Council when this was originally approved, so the change has to come back to Council for that additional information.

Seth Thompson: That's correct and the way that your Code reads, anything that significantly alters a provision of the approved plan, needs to come to Planning and Zoning and then Council and the public gets the chance to comment on it. So I don't know if anybody else from the town, or the applicant, has any thoughts, but my suggestion would then be to hear anybody from the public that has a comment.

Councilman West: I have one concern. You're changing up these streets. Are we going to have the same issue with signage and being able to locate these properties, being you're changing things up, or are we going to have another Cannery Village where the 911 people can't find the right address?

Mike Kobin: The main street network changed very little. One cul-de-sac was added and basically the streets themselves are in the same location that they were. It's really just alleys that had been taken out of the plan.

Councilman West: But how are you going to address the signage issues so that you'll know which individual property is what?

Mayor Newlands: They don't have the signage issue problem in Heritage Creek.

Vice Mayor Betts: They don't have it.

Mayor Newlands: Also, unlike Cannery Village, has roads in front of every house, so every named street is the front of a house, so it's a different layout.

Councilman West: Okay.

Mayor Newlands: Does any of this change the frontage for any other houses? I'm phrasing that wrong. How different is this from what we use for other houses?

Robin Davis: Since it's an LPD, it doesn't fall within the standards for an R-1, R-2, R-3 district, so these changes are allowable.

Mayor Newlands: Okay, so this is unique to Heritage Creek? Okay. Great. Okay.

Anybody else?

Councilwoman Jones: And so the original plan, as I understood it, actually calls for 20' setback; we're now requesting 22'.

Robin Davis: The 22' was never in the original. It only had the 5'.

Mike Kobin: They were actually only 5'; and there were front load homes in the original plan, there just weren't as many as there are now.

Councilwoman Jones: Okay, then I ask the question that Heritage Creek came before Council a very short time ago requesting Site Plan Approval. What made you change the ideas of the front loaded homes now in this Phase, from what was approved a very short time ago.

Mike Kobin: Part of the development is still that way, it's just there were more front loaded homes now, than there were. There are still rear loaded homes and none of that changes.

Mayor Newlands: They're not changing the number of homes they're building. This is just the position of the home on the parking lot.

Mike Kobin: We went with a little bit greener approach, fewer of the alleys and more homes coming off the streets.

Mayor Newlands: This is not changing what we approved a few months ago.

Councilwoman Jones: For the homes in this location, do they use their alleys for services, such as trash; the location of the homes, right now that are built out in Heritage Creek, are those alleyways used for services? Okay, so by eliminating the alleyways on the front loaded homes, services now will be carried out on the main streets?

Mike Kobin: For those home they would be, yes.

Councilwoman Jones: For those homes.

Mayor Newlands: But, again, we've already approved those homes and those... this is just the positioning of the house on the lot.

Councilwoman Jones: I understand. I'm just asking what the elimination of an alleyway means, which means services then get moved to the front street.

Mayor Newlands: Right, but we've already approved the topology of the development, so all we're doing now is just the setback for the home.

Councilman Lester: And that's standard for the rest of the town?

Mayor Newlands: What's that?

Councilman Lester: Services on the street level.

Mayor Newlands: Yes.

Councilwoman Jones: Right.

Jeff Dailey, Gristmill Drive: I'm quoting the developer of Cannery Village. I'm not going to name his name. "If I had known how expensive it would be to put lanes behind the homes, which doubles the cost of paving, I would not have designed this type of development." That's Cannery Village's developer speaking. So the Heritage Creek development had some front loaded homes, with setbacks of only 5'? Is that correct, Sir?

Mike Kobin: Yes that is correct.

Jeff Dailey: Okay, what we have in Cannery Village unfortunately, is many homes with garages fed from a lane, where trash services are. The actual driveways that lead up to the garage from the lane, will not hold a compact car and what we've discussed, as we live in our homes longer and longer, we tend to accumulate things, garages fill up and so we can't park our cars on our garage, so they end up on the street. So congratulations to Planning and Zoning, for finally looking at whether or not there will be adequate parking. The 22' setback will allow for people to park their cars in the driveway, more than just one or two; so that's good, but it's time for Council to wake up to the fact that it does always come down to money and Councilwoman Jones is correct in pointing out that Heritage Creek just came before Council and asked for a major revision in their Phase 2 and it's all a matter of money. Money interfaces with quality of life. So if the Council is going to look at quality of life for the years to come, as Heritage Creek ages, and you're asking questions like is there adequate parking, which Planning and Zoning asked, you need to make your decision not only based on the developers wanting to save money and that's where the revision is coming from, I feel, in my heart of hearts, my opinion, but you also have to look at the quality of life in a major neighborhood that's going to be here for years to come. Thank you.

Ginny Weeks, Clifton Street: I just have one quick question and I would like to point something out to the Council. You talked about what the setbacks were in an LPD. In the Zoning Ordinance, I was never able to get it changed and you guys really need to address this. I've brought this up before. Within the Zoning Ordinance, if you open it up now, in the Ordinance for the LPD part, it says for setbacks refer to the density code and when you go to the density code and you flip the page, on the back, there's a little notation for LPD that setbacks refer to the Code. So there are no setbacks and they're set as the developer wants it when it comes in, but there are no legal setbacks. That being so, my question is, these houses that you're flipping, their back setback was originally what, 5', 10'?

Mike Kobin: Yes, Ma'am, 5'.

Ginny Weeks: What is it now? Now that the garage doesn't need to be there, can that house now be built to within 5' of the setbacks still in the rear; so people have only 10' between the rear of their houses?

Mike Kobin: The rear setbacks still would be 5'.

Ginny Weeks: I think that's inadvisable. Thank you.

Mayor Newlands: Who initiated this request?

Robin Davis: The developer.

Mayor Newlands: Any further questions?

Mike Cote, 304 Gristmill: You're not taking away the lanes behind the houses, is that correct? Let me ask it as a question, then. Are you taking away the lanes behind the houses, because some of them are rear loaded and some of them are front loaded. So it doesn't seem like you could take away all the lanes.

Mike Kobin: No. There are portions of the development where we removed the alleys, future portions of the development in the Master Plan where the alleys are gone now, but there are also still portions that will have the alleys, so it's like what's there now.

Mike Cote: So you can either be loaded onto... You can either rear load or front load?

Mike Kobin: Yes. The Planning and Zoning Commission wanted to make sure that we distinguished between the two.

Mayor Newlands: So you could have a front loaded house on a street with a lane, with an alley in the back?

Mike Kobin: No, Sir. If there's an alley, then it needs to be a rear loaded house.

Councilman Booros: So the backyard's going to be... the back of each house will only be 10' apart?

Mike Kobin: Conceivably, yes. That's not the intent, but...

Preston Schell, Heritage Creek Development Group: I just want to point out where these home sites are, because a lot of these questions, if we did that at the beginning of the presentation it would make a lot more sense to you. As you'll see most of our front loaded homes are up against the environmentally sensitive areas, where it doesn't make sense to throw an alley behind these homes, to basically cut off these homes and put more pavement right up against the wetlands, even though we're significantly off the wetlands. We had a section over here and I apologize if we don't have the old plan. Do you know if we have the old plan? Let me show you what it looked like before and let me show you what it looks like now, and you guys can determine whether you think it's a better plan, or not. We had an old plan where we had a major street, Mariner's Circle, kind of running on this side of the homes and then we had an alley and we created a situation that a gentleman was complaining about at Cannery Village, where we had some home types that only had an alley; that were not on a street. Yes, we looked at all the paving and the costs, so the gentleman that brought that up is accurate, that that's part of the decision making process; but also the marketability of these homes. We thought that changing that plan, which kind of looked chopped up and a lot of people said but I have this alley behind me and then I've got this in front of me, which a lot of our homes do have. And by the way the proposal that we came in front of the Council with before, is exactly the same. We were talking about Phase 2B in this section right here and we haven't changed a thing in Phase 2B. We're simply talking now about homes in this section of the project and when we went in front of Planning and Zoning with this change, they brought up the fact that this is probably something that we should have done initially, but you've got a lot of front loaded homes and now you're adding even more, so you can see the simplicity of this plan relative to the other plan. We don't like the fact that in theory, we were never going to, we were never going to build our homes within 5', when they're front loaded. It just doesn't make a lot of sense, but they wanted to mandate, so this isn't a change that we requested, this is a change that Milton Planning and Zoning Commission requested, that we impose on ourselves, which is what we're trying to do at this meeting, a 22' setback, as opposed to the 5' setback that's across the board. So now, whenever we have a front loaded home in the community, which these were added, and I my guess it would apply to these homes, as well; we have a 22' front yard setback, as opposed to the 5' yard setback that was applied unilaterally across the entire project. So hopefully that makes more sense now as to what we're trying to do, but we're not getting rid of the alley access nature of the entire community. A lot of that still exists, we're just offering a broader product type and we have a feeling that this product... We all feel that this product type is more appropriate up against our wetlands, where you don't throw alleys behind the homes or in this case, there was a larger roadway on this side of these homes. We've taken it out.

Councilwoman Jones: Before you put that down, question, because I'm... this archway is the front loaded homes, with sensitive lands behind. You said you added more front loaded homes. Have you added and changed the design?

Preston Schell: No, no, we've taken out rear loaded homes and added front loaded homes. The total number of homes has not changed.

Councilwoman Jones: I understand that, but since the plan that was approved this past fall into winter, have these on this side, have these changed to front loaded homes, where in the original plan they were back loaded homes?

Preston Schell: Yes, but that had nothing to do with the plan that we brought to you recently. That plan recently was just for Phase 2B. That was the Master Plan that was brought to you, I think, in 2006, 2007. So yes, relative to the original plan, we do have more front loaded homes; relative to what you all reviewed recently, which I believe was this section right here, it has not changed one bit. So essentially we did not waste your time 3 or 4 months ago, if that's the question.

Councilwoman Jones: No, no, the question is in approving 2B, right, that's what you came before us with, this whole expanse, is this all still part and parcel of 2B?

Preston Schell: No. It's not. It's a whole different phase.

Councilwoman Jones: Okay, so you're asking us to actually approve a setback for a phase that has not yet...

Preston Schell: We're presenting a new Master Plan to you. And so when we want to build on that phase, we're going to have to engineer it, come in front of Planning and Zoning Commission again, I believe; with the fully engineered plans, and come back to you and repeat the process similar to what we did with Phase 2B for the subsequent phases.

Councilwoman Jones: Okay.

Preston Schell: We're basically coming back saying we wanted to change up the ways these homes were configured and well actually, no, this meeting is just about the 22' setback. We're asking for your permission to increase our setback from 5' to 22'. We're, quite frankly, perfectly happy if you don't do that. We will probably do it anyway.

Councilwoman Jones: And I'm not worried about that. What I'm trying right now to define is, if we're looking at a 22' setback in an already existing plan, which is just turned into front loaded homes, or whether we are looking at this 22' setback for this archway, which hasn't even gotten all of it's approval through Planning and Zoning yet. Is that correct? So what portion of that are you now asking us to change to 22' setbacks?

Preston Schell: We are very happy if you don't want to.

Councilwoman Jones: You didn't hear me say I didn't want to, but that doesn't answer the question.

Preston Schell: I guess what the application is...

Mike Kobin: It would apply to the Master Plan which applies to all future phases.

Councilwoman Jones: Okay.

Preston Schell: And all front loaded homes.

Mike Kobin: Nothing in existence now; or nothing that you've already approved. It would just...

Preston Schell: We're not here asking for an approval of a phase; we're asking for anything other than...

Councilwoman Jones: For the entire Master Plan.

Preston Schell: the ability to self-impose an additional 17' front yard setback on ourselves for all front loaded homes in the entire plan; whether they be here or we come back years from now and try to put some more front loaded homes over here, that setback provision will still apply, because it applies to the Master Plan.

Mike Cote, again. This is just because it's an issue close to my heart, and I heard you say something which confused me. Are there homes in that development that are addressed to the lanes behind the houses?

Preston Schell: There were, before. There are not in the new Master Plan.

Mike Cote: That's better. Okay, thank you.

Ginny Weeks: I'd just like to clarify something. The rear setback for these homes is 5'.

Mike Kobin: Yes and as you can see almost all, except for maybe 3 or 4 homes, don't



back up to other homes.

Ginny Weeks: Right, but you're getting the 22' setback and the 5' setback for everything that has not been built. So it's not just those houses.

Preston Schell: No. No. Not for the rear loaded homes. The rear loaded homes will stay.

Ginny Weeks: I'm not talking about... Any future front loaded homes will have a rear yard setback of 5'.

Preston Schell: Yes, we're not requesting that that be changed. That's what it is now and we have not...

Ginny Weeks: I'm just saying that it's something that the Council needs to consider. Do you want to let people build in the rear to within 5' of the property line.

Councilman Booros: It's already that.

Ginny Weeks: It was 5' because the garages were back there. Now the garages aren't going to be there, so why should they be able to extend the house to within 5' of the property line? That's all I'm saying. Talk about quality of life and the value of the house. Thank you.

Mayor Newlands: That's something that can be looked at in the future, because they're not asking for the rear yard setbacks change now, but we can look at that in the future.

Jeff Dailey, 211 Gristmill: Thank you very much Mr. Schell for your clarifications. I'm going to defend you, if you will, and I'd like Council to consider this and I'm surprised that Schell Brothers haven't considered this. Why would you want to lock yourself into one standard setback from street to front of home? Esthetically that's not pleasing. Plus you could sell a wider variety of homes if you had a varying setback, which might allow you to sell a home, model, that would have a setback of 14' from the street and a bigger backyard, which could be a selling point. So I'm just saying that for all of our future residents who buy from Mr. Schell at Heritage Creek, this Council, which has confessed that they really are remiss in their understanding of LPD's and all of the ramifications, you need to take a great deal of time and look at this from the bottom; look down at it from the top; and all sides, which we do not do in this town. Cannery Village was a first. Thank God it's a wonderful community, beautifully designed and once we get this emergency address thing behind us, we'll all be in heaven, and streets paved, also; and hopefully we won't have to wait 15 years like Shipbuilder's. But you really have your work cut out for you and God bless Planning and Zoning for thinking and thinking about street parking, but that's just the tip of the iceberg. This is huge and I think you've missed some of the opportunities and I don't understand why you, as a developer/builder would want to lock yourself into one setback. It just doesn't make sense to me.

Preston Schell: We don't. We were asked by the Planning and Zoning Commission to...

Jeff Dailey: But the Planning and Zoning doesn't rule, they make their recommendations to Council and you all really need to take your time with this. Thank you.

Preston Schell: But in their defense, I do think they have a good point, because as someone brought up, people do over time use their garages for storage and it is helpful to have the ability... 20' is usually the minimum, but at least 20' between... particularly if it is in a front yard, between the street and someone's garage. So we can still jog it back. If someone orders one of our homes that's not as deep and the person says please push the home a little further back, we may have a home or two that are 28' back, 26' back, 24' back; we just can't have a home that's 21' back, if this new stipulation passes; which I personally don't think is a big deal. If you looked at our conceptual plans, they were all 20' back anyway; because we had already thought of this. From a design perspective, this is kind of a 2' issue for us. We've got to extend some of the homes 2' further back than we would have otherwise located them.

Mayor Newlands: So getting this done, actually, just gives you a starting point for your planning so you can figure out what you're going to do in the future? Okay.

Seth Thompson: Are there any other comments from the public?

James Wagner, 409 Federal Street: It's been mentioned about the 10' between the houses. Isn't there a part of our Code that has a minimum space between houses?

Seth Thompson: The setbacks are dealt with in the Zoning, again LPD is it's own separate issue. I think here, Mr. Schell's point was in practicality these homes are backing up to wetlands, so...

James Wagner: Except for 3 or 4.

Seth Thompson: That's exactly right.

Councilwoman Jones: And that one issue is we're now allowing only a 5' setback between a home property and a sensitive piece of land. No?

Mayor Newlands: That's the existing code...

Councilwoman Jones: I understand that and I'm not arguing that.

Mayor Newlands: Right. Right. I don't want to get off track in...

Councilwoman Jones: But the idea of reducing the alleyways in the backs of those homes was brought to us by Mr. Schell to consider the sensitivity of the land behind the homes.

Mayor Newlands: Right, but that's not what we're looking at tonight.

Councilwoman Jones: Making a statement.

Mayor Newlands: No, I understand that. I understand that, but we need to get this approved. Does anybody else have any questions on Council?

Councilwoman Jones: I applaud Planning and Zoning for, as Mr. Dailey said, recognizing that some of the problems that have existed in previous communities may be eliminated by adding this setback. I would sure appreciate, me personally, a little more time to look this over since we're talking about a consideration to the Master Plan. Again, I'm going to turn to you, there's no urgency as far as these homes waiting to be built; we're talking about phases out yet, correct, for this new setback, except for this piece right here?

Preston Schell: There is some urgency in the sense that we'd like to get it approved, so we could start marketing it. Honestly, I personally don't feel that the request from a 5' to a 20' setback is complicated enough to warrant more time and consideration, but obviously I do this for a living, so maybe... I'd appreciate if there could be an answer tonight so we can continue to move forward, because we still have come back to you with an engineered plan of this phase, when we actually want to start building it.

Mayor Newlands: Like he said, this helps them with the design of their houses, knowing what the setbacks are, they know what the size properties are, they know what the models will look like. Correct?

Councilman Booros: Councilwoman Jones I think it should be noted that there's nobody from Heritage Creek standing here, asking to be heard, to say they don't agree with this and before we had a few people that wanted to be heard against it and we had a few people that approved it; quite honestly, I think if the people in Heritage Creek, the existing people in Heritage Creek had a problem with it... I have a hard time seeing from here, but that is the Master Plan for the entire development, right? I can see it. Trust me, I can see enough of it. Okay? Like you said, all but a few of those homes are backing up to woods and that's the whole development. That's not just part of the development, that's it. Right? We're not looking at just part of it. It's all those houses on the outskirts, the ones around the loop. They're backing up... If somebody wants to buy a house with a 5' backyard that backs up to woods, then God love them. That's their business.

Councilwoman Jones: And it's entirely their business. My feeling is that we're asked tonight to approve this, when the only urgency is to market a phase that hasn't been developed yet. Is that... I mean, this phase on the archway, that belongs to what Mr. Schell? Future development of that property? Is that correct?

Preston Schell: Right here?

Councilwoman Jones: No, no, this piece in the far back, which would also then be affected by the front setbacks.

Preston Schell: That's future development.

Councilwoman Jones: Okay. And I think just because of some of the occurrences in the years gone by and these developments, I'm just being extra cautious. I can't tell you that I have any issue with increasing a setback when it means that that homeowner can get their car in the driveway safely and get it off the sidewalk and off the street.

Councilman Booros: Every one of those houses, you know, bar a couple, based on what I can see from here, is going to have a driveway in the front, leading up to the garage. Like he said, it's going to take 21' to get the car off the street, into the driveway. Okay? The backyard's were already a 5' setback, whether there was a garage in the back or not. They're not doing away with any alleyways along those protected lands back there.

Mayor Newlands: And these are one car garages, or two?

Mike Robin: All of them will be two.

Mayor Newlands: Okay, so that's two cars that can come off the street by doing this.

Councilman Booros: That's right.

Mayor Newlands: I think it's a no brainer to do this. Does somebody want to make a motion to approve this?

Councilman Booros: I make a motion that we, oh God, I've messed this up; that we approve the revisions to the Master Plan...

Seth Thompson: Proposed revision to the Master Plan.

Councilman Booros: As proposed.

Councilman Lester: I'll second that.

Councilman West: I'll second that.

Mayor Newlands: We have a motion and a second approve the proposed revision to the Master Plan for a 22' setback and we'll do a roll call. Hold on. Any further discussion by anyone:

|                    |     |
|--------------------|-----|
| Councilman Booros  | Yes |
| Councilman West    | Yes |
| Vice Mayor Betts   | Yes |
| Councilman Lester  | Yes |
| Councilwoman Jones | Yes |
| Mayor Newlands     | Yes |

Mayor Newlands: Motion is carried.

Preston Schell: Thank you.

Mayor Newlands: You're welcome.

Councilman Booros: Good luck.

b. Addition to Planning and Zoning Commission

Mayor Newlands: The gentleman's name is Barry Goodinson. He lives on Mill Street.

Seth Thompson: Mr. Mayor, do we have his ethics form? Did we get that?

Mayor Newlands: I don't know. Mr. Abbott, do you have Mr. Goodinson's ethics form?

Did we get that? For Planning and Zoning, the gentleman that's going on Planning and Zoning. I think the only thing we need it for is just for the motion. If we don't have it, we could just say pending receipt of the ethics form.

Seth Thompson: You could just make it a condition of the approval.

Mayor Newlands: Right.

Win Abbott: Yes, please make it conditional upon approval.

Mayor Newlands: Okay, that's fine. Okay, so we have a gentleman. You've gotten his package, his information. Right now, I think you have five members to Planning and Zoning and you're at your minimum right now, so if you have anybody out, they can't have a meeting, so...

Seth Thompson: You can have a meeting...

Mayor Newlands: Are you supposed to have five? I thought they had a minimum.

Seth Thompson: Well you can hold a meeting with a quorum, but it makes it difficult; for instance, if somebody has to recuse, then you're down to three.

Mayor Newlands: Right.

Councilman Lester: I move we accept Mr. Goodinson's application to be a member of the Planning and Zoning Commission, pending receipt of the ethics form, absolutely.

Councilman Booros: I second the motion.

Mayor Newlands: We have a motion and a second to accept Mr. Goodinson on Planning and Zoning, pending receipt of his ethics form. All in favor say aye. Opposed. Motion carried.

c. Addition to Board of Elections

Mayor Newlands: Addition of a member, Mr. Robert Howard, to the Board of Elections. I think Mr. Howard was previously on and came off, for some reason.

Councilman Lester: I move that we approve Mr. Howard, pending his ethics form. I'm sure he already has an ethics form on file, but an update.

Vice Mayor Betts: I'll second that.

Mayor Newlands: We have a motion and a second to approve Mr. Howard to go onto the Board of Elections, pending receipt of his ethics forms. All in favor say aye. Opposed. Motion is carried.

d. Community Development Block Grant

1. Council Resolutions 2013-01, 2013-02, 2013-03

Mayor Newlands: We have to approve the Grant Application.

Win Abbott: Mr. Mayor, just for clarification, the three resolutions before you are verbatim, the language that was provided to us by Sussex County Council on behalf of Mr. Whaley.

Councilwoman Jones: I have just one point, if I may, on the front page where under Certificate of Assurance, it states here to be signed by you and attested to, the Town of Milton has held a Public Hearing on January 7, 2013, with required notice for all citizens, including low and moderate income persons, to have an opportunity to present their views and proposals. By definition, and I don't understand how the Town Council meeting with Mr. Whaley on Item 1 under presentation from, is a Public Hearing that would have offered the public enough of an opportunity to present their viewpoints or proposals. I am completely and absolutely in agreement with the Block Grant and what they stand for and the help that they give, but I do not believe we've presented an opportunity for people to give their viewpoints or proposals.

Councilman Booros: My concern is that we didn't bill it as a Public Hearing and that we're specifically saying Public Hearing. I know when he stood up there, he said thank you for this opportunity, but that's not how the Freedom of Information Act went out, as a Public Hearing.

Mayor Newlands: Yes, I did not know this was in here, like this.

Councilman Booros: My concern is that also, I agree with everything the man said, but we might have a problem if we skirt the fact that there was no true Public Hearing.

Councilwoman Jones: If I read Agenda Item 1, I wouldn't know that I had the opportunity to speak to it.

Win Abbott: If you would like, we can revisit this. There's been a lot that's happened in the past month, but, as per last year we scheduled advertising for this. I'll go back and provide you with the Affidavits of that, so you know that we met all the requirements.

Councilwoman Jones: I'm sure that you did, Mr. Abbott. I don't question that. I question whether or not our Town Council Agenda billed it in such a way that the public understood that it was a Public Hearing and they had the opportunity to speak to it.

Mayor Newlands: Did the advertisement say Public Hearing?

Win Abbott: Very well. I'm pretty sure they did. Once again, if you want to defer on this, I'll go resurrect the Affidavits for that. We can do a redo.

Councilwoman Jones: Let's talk procedure then. This is a Town Council Meeting.

Win Abbott: Yes Ma'am.

Councilwoman Jones: I've also been to Public Hearings that didn't have anything to do with the Town Council Meeting, just Public Hearings on the issue, allowing public input. For argument's sake, for Freedom of Information Act, as part of what I see here and second is did we give the public an opportunity and I'm open to discussion, please.

Mayor Newlands: It was advertised, so I mean besides putting it on the agenda, it was advertised in the papers.

Councilwoman Jones: Item No. 1 then, should have read then Public Hearing.

Win Abbott: I would not disagree with you.

Mayor Newlands: So we can bring it back for next month. Are we time-sensitive with this?

Win Abbott: Mr. Mayor, I'll have to get back to you on that.

Mayor Newlands: Okay.

Councilwoman Jones: And I hate to put Mr. Whaley through that, he and his colleague were here this evening and I appreciated what they had to say.

Seth Thompson: I don't want to read too much into what Mr. Whaley said, but he didn't... I believe there was at least one comment that made it sound like it wasn't something that needed to occur tonight. Maybe I'm reading too much into what he said, but that was the impression that I got.

Councilwoman Jones: I didn't get a time sensitivity from him, but...

Mayor Newlands: We'll talk to him and have him come back next month.

Seth Thompson: The other element is, I think the third Resolution requires some amount from the town.

Councilwoman Jones: Money.

Seth Thompson: That might be something that the Council wants to think about a little bit more than just this evening.

Mayor Newlands: I don't know what we did on previous ones with the amounts.

Win Abbott: Previously the town has had zero to put into this. Zero to put into it for these housing rehabilitation grants and zero effort on the part of processing the applicants and this was my experience, being a member of the Town Council of Clayton when we went through the same thing in Kent County. It was rather proforma, but nonetheless, we can put this on next month's agenda. I'll go back and provide you documentation.

Mayor Newlands: Okay. Okay.

e. Personnel Committee Charter

Mayor Newlands: By Charter, what I meant was, just the responsibilities of the Personnel Committee. There were some changes that Councilman Booros wanted to make with respect to the Personnel Committee, as far as them approving raises for employees and Mr. Abbott gave us almost an inch of paperwork here relating to the Personnel Committee. Do you want to go over any of this?

Win Abbott: Not necessarily.

Mayor Newlands: Councilman Booros you had mentioned in previous meetings, that you would like the Personnel Committee to recommend percentages of increases for employees, which...

Councilman Booros: I would like for them to review... For instance, I have a question and I'm not on the Personnel Committee, so unless the Committee convenes to know this, they'd probably never know. Was the fact that some of the supervisors hadn't had their performance appraisals done in a timely fashion, recorded on those supervisors performance appraisals.

Win Abbott: No.

Councilman Booros: I've got a problem with that and I'm not on the Personnel Committee, but if that's one of their duties, then it wasn't on their performance appraisal, I have a problem with that. Okay?

Win Abbott: Duly noted.

Councilman Booros: Duly noted and I have a problem with the percentage of raises. I think there are some people in this town that deserved one heck of a raise, for doing one heck of a job and I think there are others that probably didn't. We had a police officer that saved a life and we gave him a piece of paper. You know, maybe he deserved more than a piece of paper. You know? It just astounds me and while I'm on the subject, since it's come up anyway, who posted the adopted budget on the town website? Who typed the word adopted on this budget? I printed this off the town website today and the word Adopted is right up there in the corner. Adopted.

Mayor Newlands: Okay.

Councilman Booros: This Adopted Budget that's posted on the town website, shows a 3% increase for employees down the column on the left hand side. Anyone looking at this, I would say any rational person looking at this, would look like they all got a 3% merit increase, across the board, down from top to bottom. Okay? So I don't know who it was that gave the people the raises, 3% across the board, but if whoever prepared this document, this is not what we adopted and it needs to come off the town website. We adopted a pot of money, a pot of merit money, not 3% across the board as this posted document. It needs to come down. Okay? That's all I've got to say on that one. I'm serious. I'm not going to get an answer. Nobody's going to tell me who put this up on the website. I don't really expect an answer, but I know that if I were to look at this, I would have assumed that everybody got a 3% raise across the board and I would have

given them all a raise.

Councilwoman Jones: I have a question in reference to the Employee Handbook and actually I was grateful, even though it's a lot of data, it actually was the first time that I've had a look at the Employee Handbook and I was surprised to see, actually Mr. Abbott, that the last revision was 2005, because I think past Council's kicked around having this revised, I thought as late as 2009; some revisions were in the pipework.

Win Abbott: It was not adopted.

Vice Mayor Betts: We were working on it.

Councilwoman Jones: It was not adopted. Okay.

Mayor Newlands: There's a 2010 version that... Did that go to the insurance company for review?

Win Abbott: It did and the review is included in your packet there.

Councilwoman Jones: I have just one question from the Employee Handbook and if this is the last... unless something's happened during the revision. Unused sick leave may be accumulated without limit, but for payment a maximum of 720 hours credit shall apply. Does that mean when an employee leaves in good standing, if it's on the books, we pay them for 90 days sick leave?

Win Abbott: You will find references to employee policies in both our municipal code and the Employee Handbook. As I exhaustively detailed, the Employee Handbook is in the domain of the Personnel Committee and what you have before you is the most recently adopted one, even though there was a more recent revision that was not adopted. To answer your question, when you look to the municipal code, you will find that in order for an employee to be eligible for that, they have to retire. Now, we don't have that many retiring employees. There is a cost and a benefit to having this kind of policy. The benefit, I'll put up front, to the town, is that you don't have such a high likelihood of a payout for these unused sick days. That as long as an employee remains employed, they might have a heart attack and take four to six months to recover and they're covered under that, but the likelihood is that people will change jobs, that you'll never have to pay it out, however, the cost on the front end is this, the employees like people with regard to tax consequences, are cognizant of this fact and in some cases, you'll have employees that will consciously use their sick days and in some cases, creating overtime expenses for that department in order to cover their shifts, costing you more in the front end. So these are policy related discussions that should occur at the Personnel Committee level. Your observation of this situation is accurate and is something that bears discussion. When I was in the Town of Fenwick Island, we made a conscious decision to give retiring employees the full benefit and anybody who left with proper notice, good service, at least one year, whatever the case might be, 50% of your unused sick time. That was an incentive for people to not use their sick time, but it did not create an undue burden on the town, so they split the baby in half; so these are policy discussions that should occur at the level of the Personnel Committee and then be adopted by the Town Council, because they have consequences on both the Employee Handbook, Personnel Committee issue, and also the municipal code. Valuable questions. Things that could bear a productive discussion on the Personnel Committee level.

Councilman Booros: Can I ask one question on this? Am I true in assuming that what I read here was that a new employee starting in this town earns 3 weeks of annual leave, the first year?

Win Abbott: I believe it's two weeks, but, I may be mistaken.

Councilwoman Jones: Ten hours for each month's service. That's three weeks.

Win Abbott: Okay, alright.

Councilwoman Jones: Which is also the same accrual of sick time. Three weeks the first year you're here. I'm just verifying.

Win Abbott: It is, what it is. I didn't make it.

Mayor Newlands: It is ten hours, yes. That is correct.

Councilwoman Jones: I agree, to defer it to the Personnel Committee, but as we are often inundated with salaries or information from other municipalities, this will also be helpful to me, since I'm a member of the Personnel Committee, to get some comparisons of what other municipalities are doing.

Win Abbott: I try to share as much as I can.

Councilwoman Jones: Thank you.

Councilman Booros: Thank you.

Mayor Newlands: We need to get out to everybody, and especially the Personnel Committee, the newer handbook that was done. It was finished in 2010.

Councilwoman Jones: Can I get a copy at Town Hall?

Mayor Newlands: Yes. Sure.

Councilwoman Jones: Is that good? Okay. And so you are already talking about setting a Personnel Committee meeting? Is that something we could do now?

Mayor Newlands: Yes, sure.

Councilman Booros: I would ask at this meeting, that the Personnel Committee look at how the Code could be changed to allow them to look at the performance appraisals. I mean, that's something the Personnel Committee should come up with, not me, and bring it back to Council.

Mayor Newlands: Fine. You're the one who brought it up. I just wanted to give you the opportunity to speak about it, that's all.

Councilman Booros: Absolutely. Thank you.

Councilwoman Jones: I'm sorry, did you want to make an appointment for the Personnel Committee now?

Mayor Newlands: Yes, next week. Pick a date.

Seth Thompson: Well it's got to be seven days out.

Mayor Newlands: Well, it's Monday, so maybe Wednesday, Thursday? Call me tomorrow because Kristen is not here, anyway. Actually, call me...

Councilwoman Jones: Are you sort of flexible?

Vice Mayor Betts: Do you want the Personnel Committee to meet on that date?

Councilman Booros: I talked to Kristen today. Kristen's available any day, any day, and any time that this Personnel Committee can meet.

Mayor Newlands: Okay, so we can make it a week from... What's your schedule like next week.

Vice Mayor Betts: That's why I'm asking.

Mayor Newlands: We can set the date tomorrow afternoon.

Vice Mayor Betts: Because I have... I think.

Robin Davis: We'll have to book the library.

Mayor Newlands: We can book the library. Yes, I know. Okay.

Councilwoman Jones: Okay.

Mayor Newlands: So we'll set the date tomorrow.

- f. Funding for Consulting Services by the International Association of Chiefs of Police

Mayor Newlands: Mr. Abbott you gave this information out to us with the anticipation that these guys would do a technical assistance? Was that the...

Win Abbott: That is correct. That is their terminology for the type of engagement that



the Town Council had requested.

Mayor Newlands: But then there's a list of Study Objectives, Study Products, Qualifications... What exactly do we get back on this, do we know? Have we seen any type of reports from them, sample reports?

Win Abbott: That is what you have in front of you. The Town will help to develop the Alcom's based upon the up-front interviews, as described in the information here. The \$6,000 allocation is based upon an estimate at the time necessary in order to conduct the up-front interviews and to establish the objectives that were relevant to this particular town's needs.

Mayor Newlands: Now they want \$600 a day. Is that per person, or just for the team that comes in? Do we know?

Win Abbott: That is their per diem expense. Now it does not include travel as is detailed within it.

Mayor Newlands: No, I understand, but is that \$600 per person, per day?

Win Abbott: It is per person, per day.

Mayor Newlands: How many people do they send, do you know?

Win Abbott: One, typically.

Mayor Newlands: Oh really? Okay. Do you want anybody in the public or Council just a brief overview of what we expect to get out of this?

Win Abbott: The Council has requested this a few months ago. It certainly provides a qualified, third party, intermediary to address issues that are of concern to the Council, the public, the Police Department, management. They've done this kind of thing throughout the country, for many years, and even locally, they did it for Ocean View and this addresses an outstanding concern in a professional manner. That's really all it comes down to. The particular objectives that this town wants, can be developed, based upon the up-front interviews which are an expense item, as well.

Mayor Newlands: Now you wanted to put this underneath the Administrative Consulting Fees?

Win Abbott: I think that's what makes the most sense, but that's up to Council.

Mayor Newlands: Do we have any money budgeted there?

Councilman Booros: No, there was no money budgeted.

Win Abbott: No. That's the whole point of the proposal.

Mayor Newlands: Okay, so there's zero money budgeted for this, okay.

Win Abbott: Correct.

Councilman Lester: Mr. Mayor, if I can just speak to this, because I looked up this group initially and my concern is this. Over the last many years there's been so many concerns about number of officers we should have, whether we have take home cars, we don't have take home cars, and between the members of the Council and people in the town, I hear all the time there's a lot of cars down there and then if you try to explain hot seating cars, etc., I think and let me just go back for one second; the other thing we hear a lot, we're compared to other towns. We hear what Rehoboth does, what this town does. We're not Rehoboth, we're not Milford, we're not Lewes, this is Milton. Milton has its own set of requirements, its own set of policing requirements and I, for one, its money well spent to have a professional organization come in and look at what we do and give us their opinion.

Mayor Newlands: I agree.

Councilman Lester: I'm not taking any sides against the police chief, because I think the police chief has managed his department well, but just to satisfy everybody that yes, we're on the right track, or maybe this is something that can be improved upon, this

thing you really need two officers, and the town can rely on the State Police for half the day, whatever. Let's find out once and for all from a group that is qualified to give us the information.

Mayor Newlands: Okay.

Councilwoman Jones: I think there's a real identified need for this analysis and that's been pointed out, I think, at least through the last couple of budget years, however, in this budget year a workshop was called upon for this Council to determine the direction of a review, if you will, so that Council could take into consideration the opinions of the public in designing what is the outcome, what are we looking for? I don't ever agree with climbing on board with the contract and then defining the parameters later. When it comes to the Study Objectives, it says evaluate the degree to which Police Department goals, objectives and operations conform to the expectations of the parent government and the public. If we don't know what the government expectations are, how do you go forward? I mean, the IACP has certainly come in and done an awful lot of studies, but right now I don't feel that collectively we're offering them what we want them to look at. And I think that needs to be defined, before you go out and search for a group who will give you that data back and since these are funds, and I know we're talking \$6,000 that is actually not budgeted for, does it behoove us to also look to another agency that can accomplish this for a second quote?

Mayor Newlands: Who gave us the price for \$6,000? Was that their standard quote? How did we come up with the money from them?

Win Abbott: I spoke with them on the phone, asked them how long it takes to do a study of this type for a police force of this size and that's what they said. They said 5 to 7 days and this is a quote per day. I thought \$6,000 was on the up side, including the travel expenses.

Mayor Newlands: Right. They come from DC or Virginia?

Councilman Lester: Yes, I think they're in Alexandria.

Mayor Newlands: Alexandria. Okay.

Win Abbott: The local person that would service us, actually lives in Cherry Hill, New Jersey and is affiliated with them. The distance is the same.

Mayor Newlands: Okay.

Councilman Lester: I'm sure we could set the parameters with an initial meeting with this group. I'm not sure we want to go around shopping for somebody that's going to be possibly give us something that we want to hear.

Councilwoman Jones: Oh no, I wouldn't shop at all, unless you want to call shopping for the IACP what has just been done, for the desired results. I didn't give any connotation to that whatsoever. You can go to a firm that has just as high credentialing. The IACP is not be all, end all, for giving you a study of how your operations are, but I'm saying you start with a list of what our issues are and what can you do to unravel these issues and give us some answers. Not in reverse.

Mayor Newlands: I think if we start doing that, then we start gearing them, or moving them in a direction that we want them to be moved in.

Councilwoman Jones: It states right here in their Study Objectives, analyze law enforcement and administrative issues of special concern to the government officials, the department, and the public. We're not...

Councilman Booros: There are seven government officials sitting here, that all have different opinions of what... their concerns are.

Councilwoman Jones: Of what we're looking for. So no, I don't think that by providing a list of concerns to a qualified reviewer we're asking or paying for a desired result.

Mayor Newlands: I'm not saying we're paying for it, it may just move them in a certain direction and I don't think it would be independent enough. Councilman Lester where did you get these guys from? How did you...

Councilman Lester: Actually I had some information early on from a conversation I had with the Town Manager of Milford, who I think had used them at some point or had known about their services.

Mayor Newlands: Okay, so they used them up in Milford?

Councilman Lester: I don't remember if Milford actually used them, but...

Mayor Newlands: Mr. Abbott, you had mentioned that Ocean View went through this study.

Win Abbott: Yes and that's what the Chief was just asking me. To be quite frank, I really wanted to get temperature of the Council, before I had a thoroughly engaging conversation with the Chief in Ocean View, which I would be happy to do. Here's the thing, there's been a lot of talk, a lot of anguish, over the whole subject, over a period of months and the task given was to find out what it would take to do this. So I delivered the product and I'll take your direction on what you want for me to do next. It's okay.

Mayor Newlands: Instead of us trying to figure out what we should do, why don't we talk to the people in Ocean View and find out what... They've been through this before. What process did they use? What steps did they take beforehand? How did they drive this? Let's talk to someone who's been through it before, as opposed to us reinventing something we have no idea what we're inventing.

Councilman Lester: I'm sure we can get referrals from the Association of other towns and speak to them.

Win Abbott: Yes and they provided referrals, so if this is the direction that the Council would like to go, I will take it to the next step, we can reintroduce it at the next meeting. Once again, I didn't want for this to be one of those things that kept getting deferred. We're being proactive and constructive in this process. That's all.

Mayor Newlands: Yes, find out from Richard Carmine from Milford what he's done with them and then Ocean View and find out what the process they went through to get these guys on board and what they did to ask them... what kind of questions did they want to ask them.

Councilwoman Jones: Again, Mr. Mayor, this isn't questioning the IACP's qualifications or their final report, but when we were in the middle of these negotiations during the budget time, I believe it was Lynn Ekelund, and I think I followed up on it, to say, asking for a workshop to identify, for Council to have the time to identify the issues...

Lynn Ekelund: That is correct.

Councilwoman Jones: Thank you.

Councilman Lester: I think in response to that, that's when Councilman Lester came up with these guys, to let them do an independent study and I think we should talk to the people in Ocean View first and find out what they did and report back to Council.

Win Abbott: You will have a full report for the next meeting.

Mayor Newlands: Okay. Thank you.

g. FY 2014 Budget Process Resolution

Mayor Newlands: The next item is a Resolution to set dates for the process for 2014. Two things, with this proposal Mr. Abbott. One, it pushes everything back a month from when we normally start. It makes it a month earlier, which I have a problem with.

Win Abbott: Yes, Sir.

Mayor Newlands: Is that the main reason, just to give us some extra time?

Win Abbott: Yes.

Mayor Newlands: The other thing is that I only see in here one Council workshop. I didn't find a date for a second one.

Win Abbott: There's no limitation on the number of workshops you want to hold. There's nothing restricting...

Mayor Newlands: Okay.

Councilman Booros: Quite honestly, Cliff, I don't understand that this takes a Resolution. It appears to me this is an administrative process, a business process, where the Town Manager is the supervisor for these guys. You tell the guys I need your stuff by this date. It's either there or it's written in their performance appraisals, they didn't give it to you, they don't get the 3% next year.

Mayor Newlands: The only thing that's procedural or that we need a resolution for is if we were going to change the target dates when we had to present these things to Council and that's covered in here anyway. In other words, it's got to be done 60 days before the end of the fiscal year, things like that, which is all covered.

Councilman Booros: There may not be a Finance Committee next year, so you're saying in here that there's got to be a Finance Committee. It may not be in existence a year from now. Maybe it is. I have no idea, but I just...

Win Abbott: Just being proactive, Sir.

Councilman Booros: I understand.

Councilwoman Jones: Mr. Abbott, I have to agree that when I read this and responsible as I am for my own budget work, I did see this as business office management, knowing the whens to start, the whats to do. What concerned me the most, was over on the second page of text, where it's stated, for these reasons the proposed early dates and tasks would be... and here's my concern, Sir, March 4<sup>th</sup> of this year the Town Manager submits any proposed amendments or a separate Capital Improvement Plan budget for first reading. Council makes recommendation for changes to the proposal. April 1<sup>st</sup>, or that is the date of the April meeting, you'll be sitting at least two new Council Members, who have not had the advantage of the work done in March, but could be looking at having the second reading of the Amended Budget. That concerns... that particular point concerns me and bridging a potential for, for at least this year, a certainty of two new people going to join on Council, that just one month before didn't have the advantage of being in the process.

Mayor Newlands: Yes, but they're here every meeting.

Councilwoman Jones: That doesn't matter.

Mayor Newlands: I know that, but they hear what's going on.

Councilwoman Jones: You talk about one Council sentencing another Council and binding... I just think that that approach is extremely early and the fact that it bridges two Councils, concerns me.

Win Abbott: Would you like an answer?

Councilwoman Jones: No. That was a comment to you.

Win Abbott: I have a yes over here, so I'd be glad to address that.

Councilwoman Jones: Oh.

Win Abbott: First of all, it is entirely at the discretion of the Town Council when or if they ever choose to make an interim change to what their annual budget is. It is coincidental that April 1<sup>st</sup> happens to be six months into the new fiscal year, thus the reason for the March introduction, so everyone has a chance to take a look at things and then April to do it. In all these things... and additionally, there is the whole request that we consider a separate Capital Improvements Budget, from the general operating

budget, with select Capital Improvements things, which I followed up on last month. So all these things put additional burdens upon me and no particular burdens upon the Council to act, at any time, whether it's this Council or a future Council. So you're right. These are entirely premature, but their proactive also.

Councilwoman Jones: I understand.

Win Abbott: So whether this Council would like to act on a resolution or not, certainly it's your call and I'm trying to do my best to make sure that processes going forward in the coming year are better than they were in the last year.

Mayor Newlands: Actually if April 1<sup>st</sup> is just the six month mark, we wouldn't have enough data, or all of the data prepared for the meeting. You wouldn't have all that information taken out of the system in time for this meeting. I think that's why we did it in May all the time.

Win Abbott: Once again, you can do it any time you want and you're right, projections may not be in line, however, if you're going to take on the heavy issue of separating the Capital Improvements Budget from a General Operating Budget with selected capital items, then that might be a time to take it up.

Mayor Newlands: That we do need to do and we need to do that early, so March would be fine for that. Yes, for the Capital Improvement Budget. Okay, I don't think we need any action on this at all.

h. Audit Services contract for FY 2013, 2014 and 2015

Councilman Booros: I know you don't want to hear this, but I'm going to say this anyway. Since we know we're having at least two new council people come in April 1<sup>st</sup>, possibly a third, depending upon how the election goes, I would hate to enter into a three-year contract that doesn't have to be entered into until April or May, for a September 30, 2013; I would hate to see us commit to a three-year thing and obligate a future Council. We know there's two new ones, they may be in the room. Yes, they're both here in the room, maybe a third. I would hate to see this. Same as, I would hate to see us commit to something that could wait two months. And it also said, I know your charter says you don't have to compete this, however, I'm always into competition, even though we probably did compete it to begin with and they did turn out to be the best.

Mayor Newlands: Yes, this was competed to begin with.

Councilman Booros: I just don't... I have no complaints with this firm whatsoever. I just think that under the circumstances that we could wait two months to put them under contract.

Councilman Lester: Mr. Mayor, can I speak out of both sides of my mouth? I've often said that we ought to have a bidding process, but over the last few years, I've become somewhat familiar with a number of accounting firms in this area. This particular firm won a contract, it was fierce bidding, a lot of people bid for this contract with the State Auditor's Office and they through a set of criteria weighed the top pick of the group. I find their integrity is top notch, they got the work done, they've been very helpful for staff. If you wait until April, I won't be here, but I would like to state a case in their favor.

Councilman Booros: I have nothing against them, by the way. Just for the record, I think they've done a wonderful job.

Mayor Newlands: Yes, they have done a wonderful job, plus the problem that you have in this particular field, is there's a limited number of qualified firms.

Councilman Booros: I understand.

Mayor Newlands: So putting it out to bid, besides the argument that Pigg, Krahll &

Stern, CPA put to us of having experience with the town, is beneficial; which is true, because we do get a cheaper cost that way, but we are limited with the number of firms that could do this kind of work.

Councilman Booros: Yes, we've also had an experience of you get what you pay for.

Mayor Newlands: That's why we're paying double.

Councilwoman Jones: Considering they did a nice report this time, is there any reason why we can't decide to renew their contract as long as the funds have been budgeted for the first year?

Councilman Booros: I don't have a problem with that.

Councilwoman Jones: I know this is presented as a package for three years, but rather than lock in, as you say, new Council, is there any reason, financially too, you said I'm going to just assume that a three-year contract lowers it slightly. Is that correct?

Mayor Newlands: I'm assuming that they've done this and it's a package.

Councilwoman Jones: I assume that.

Councilman Lester: Yes. Actually, generally, what happened here when we gave them a three-year contract, the first year in any of these contracts, you assume you're going to lose money.

Mayor Newlands: Right.

Councilman Lester: You're going to spend a lot of time, it's a new client, you've got to figure out and especially coming into the mess that we had, even though the State Auditor's did a great deal of work and we had the other people to do the work, at this point, if I were them and I'm not, but I would take that year contract. I've got three years now under my belt and I know where I've been and what to expect...

Seth Thompson: From a legal perspective, you'd basically be issuing a counter-offer that they would then have to approve. Obviously you're changing the terms of the offer that they've been presented.

Councilwoman Jones: Well it's a vote of confidence. I think they did a good job for the town and I would certainly see renewing them, but I didn't quite understand why there's a three-year proposal in front of us, as opposed to an annual.

Seth Thompson: I think they want to lock you in.

Councilwoman Jones: Well that makes sense.

Councilman Lester: It's good for them.

Mayor Newlands: Yes. We can't just take the number...

Councilman Booros: And you don't think they would wait until April to let us lock them in at this price, for a three-year contract?

Seth Thompson: I don't know.

Councilman Booros: It's very commendable to offer them year one tonight, but I don't understand why this just can't wait eight weeks and offer them all three-years.

Mayor Newlands: I wouldn't offer them the first year now, anyway, because we wouldn't know what that number would be from them. If it was going to be one year and one year only, we couldn't go by this number.

Councilman Booros: I understand. But we could ask and talk about it next month, if they'll take a year at this price and we'll let the other few years ride. That would maybe lock them into another three-year contract, after April. It would give them an extra year, wouldn't it? If we give them a year now and then we negotiate a three-year contract after the fact, that's four years.

Mayor Newlands: Yes, but we still have to hear back from them in order to get the one-year rate. So consensus says we hold onto this? Okay.

Councilwoman Jones: Does that mean tabled?

Seth Thompson: It really doesn't. If there's no... the other element it sounds like somebody from the town might want to communicate with them to see if, indeed, they would just accept the one-year at \$18,000?

Mayor Newlands: To be honest with you, I would rather just wait for the Council to reconvene and do three-years, going back to them for...

Councilwoman Jones: Are they okay with that?

Mayor Newlands: I have no idea. I have no idea.

Councilman Booros: Ask.

Councilwoman Jones: Is this unusually early for them to make this proposal for a three-year lock in?

Councilman Lester: They probably just want to project their workload.

Mayor Newlands: They're finishing up their commitment with us so they'll be giving us the last audit review pretty shortly, so to them, this is the next step. They're just getting prepared for the next step.

Councilwoman Jones: Okay. Okay.

17. Executive Session

a. None

18. Adjournment

Mayor Newlands: Can we get a motion to adjourn?

Vice Mayor Betts: I make a motion to adjourn.

Councilman Lester: I second that.

Mayor Newlands: We have a motion and a second to adjourn. All in favor say aye. Opposed.

Motion is carried. Thank you all.